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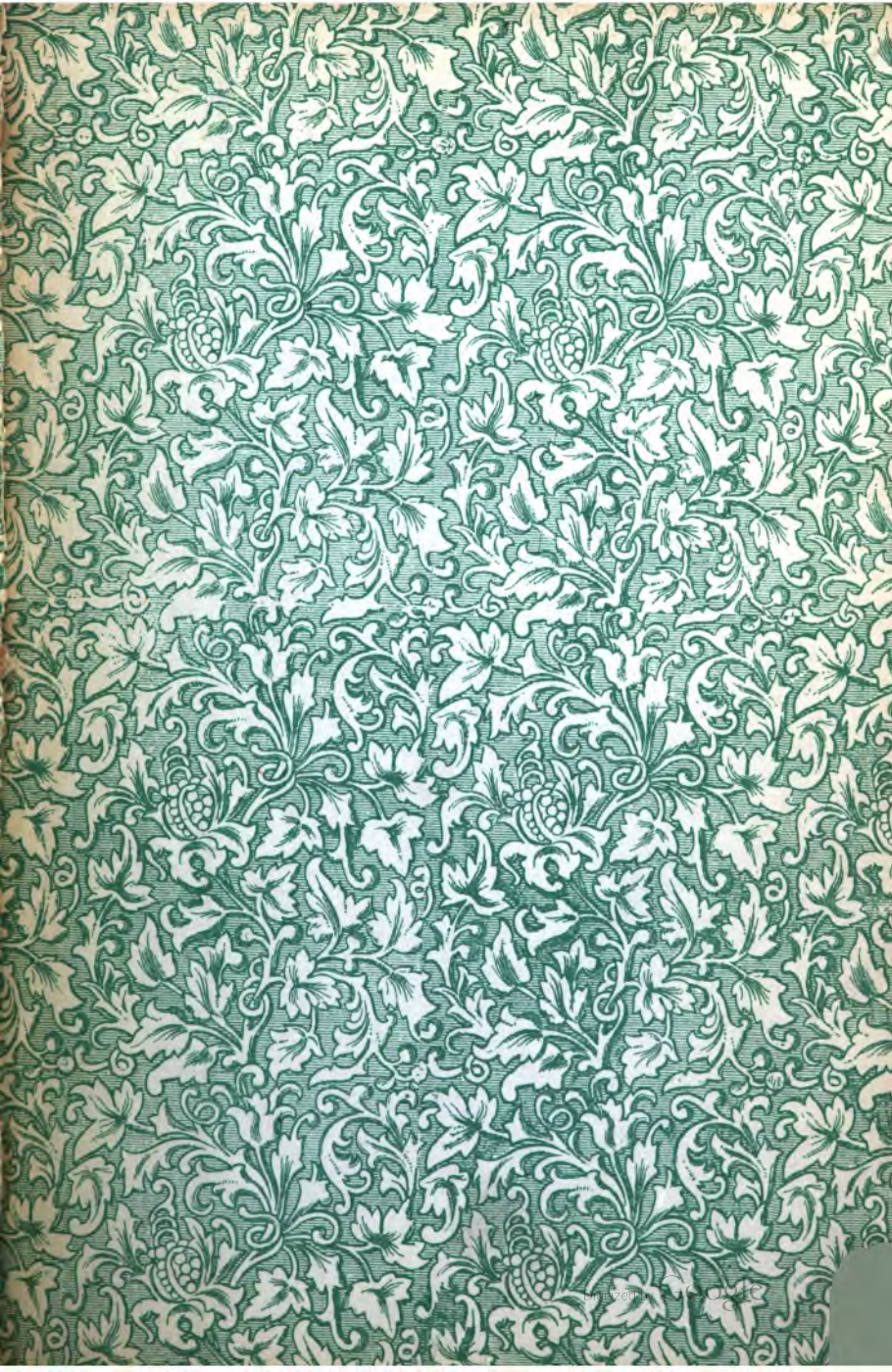
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Civil Government
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THE
GOVERNMENT OF THE PEOPLE
OF THE STATE OF
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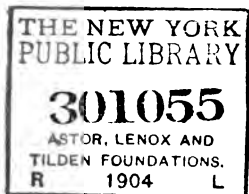
BY
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REVISED EDITION

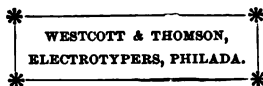


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It is not the national government, but the State government, acting through its local agencies, to which the American looks for the protection of life and property, for the security of his home and family, and for the education of his children. To understand the workings of State and local government is, therefore, even more important than to know the details of the national government. Since, however, the beginnings of no two States have been the same, the governments of hardly any two are alike, and no general description of the American State, as a mere chapter in American civil government, exactly fits any actual State.

It is the purpose of this book, accordingly, to present such an outline of the civic history and of the governmental machinery of the State of Ohio as will enable youth in the high schools, and the higher grades of the grammar and rural schools, to understand both what the government is, and how it came to be, and what the duties and responsibilities are of citizens of Ohio.

It is not possible to note in this book all the variations in county, township, and municipal government and powers, due to special legislation. The general type has been carefully given, and the leading exceptions have been indicated. Each teacher should ascertain and call attention to the peculiarities, if any exist, in local organization in his county and township, village, or city.

While a knowledge of the form and powers of the government is important, two things should be borne in mind in the teaching of civics: (1) that concrete examples of governmental work drawn from local observation and study are the best aids to an understanding of the use and operations of orderly government, and (2) that the knowledge of forms and powers is barren, except as it leads to a conception of the duty and responsibility of each citizen under those forms for the right exercise of the powers.

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THE
CIVIL GOVERNMENT
OF
OHIO.

CHAPTER I.

DEFINITIONS AND GENERAL PRINCIPLES.

1. A State is a body of persons living within a definite territory, and united under a permanent organization and common laws in order to promote their mutual safety and welfare. In thinking of a State four things must be considered: (1) A group of *people* (2) occupying a special tract of *land*, and (3) regulated in their relations to one another, and in their use and enjoyment of that land, by *laws* (4) made and enforced in accordance with a definite plan known as the *constitution*. The civil government of any State has to do with the people, the land, and the framing and operation of the constitution and laws.

2. The Land.—The situation, extent, and character of the land have a considerable influence on the government and laws of a State. A large State needs laws differing from those required by a small one; an agricultural region needs laws differing from those suited to a manufacturing district. A State with mineral resources may require special laws on that account; a sea-coast State and an

inland State have not the same necessity for laws concerning commerce. These and similar facts not only occasion differences in the laws of various States, but—what is more important for our present study—often give rise to special provisions in the constitutions of the States, to special officers, and to peculiarities in the form and machinery of government.

3. The People.—In all free States the constitution and the laws are made by the people themselves or by persons chosen by them for that purpose. In a new State the constitution generally resembles in many ways the constitutions of the States from which the people of the new State have migrated. If they come from different States, as was the case with the early settlers of Ohio, they will be likely to frame a constitution combining ideas derived from each of these; so we shall not find the plan and machinery of Ohio's government exactly like those of any other State or country. Then, after the government has been organized, the laws will depend on the character, civilization, training, and needs of the people. The laws in France differ from those in America; those in Wyoming, from those in Ohio, because in both cases the people have neither the same ideas about laws, nor the need or desire for the same kind of laws. Thus it is important to know something about the people of a State in order to study intelligently their government.

4. The Constitution.—A constitution is a body of rules in accordance with which the government of a State and of its local subdivisions is carried on. It describes the framework or machinery of the government, the powers and duties of its officers, and usually the rights of the people. These rules can be changed only by the will of the people of the State, not by any officer nor by the legislature. The circumstances under which the constitution of a State is framed have an important bearing on its character and form and on the powers and duties of the

officers. The Constitution of Ohio, for example, gives to the governor far less power than is possessed by the governors of many other States. This came about because the governor of the Northwest Territory, from which Ohio was formed, just before the first Constitution of the State was framed, had seriously displeased the people by some of his official acts, and they decided not to give the governors of the new State the power to do some important acts usually performed by State governors. The previous territorial experience of a State, as well as the previous training of its people, has also great influence on its constitution. It is necessary, then, to know the history of a State from its beginning in order to understand fully its constitution and government.



EDWARD TIFFIN, THE FIRST GOVERNOR OF OHIO.

CHAPTER II.

THE CIVIC HISTORY OF OHIO.

5. General Description of Ohio.—The State of Ohio lies between Lake Erie and the Ohio River, and midway between the Atlantic Ocean and the Mississippi River. The watershed between the lake, or St. Lawrence, system and the Mississippi system runs across the State in a southwesterly direction, dividing it into two unequal parts. In area it is one of the smaller States of the Union. It was originally almost entirely covered with forests, a considerable part of which still remain, while a

large area is underlaid with valuable coal and mineral deposits. The earliest and for a long time the chief occupation of its people was agriculture, but the manufacturing and mining interests are now of as great importance. It is crossed by nearly all the leading railway lines between the East and the West, while its commerce on Lake Erie and the Ohio River is of large proportions. Ohio ranks fourth among the States, with a population in 1890 of 3,672,316. The government, the political institutions, and the history of a State so populous and having such large and varied interests may well demand the careful study of its citizens.

6. Early History.—The region now known as Ohio was a wilderness when the Revolutionary War closed. It is a part of the territory which was earlier claimed by France under the names of Louisiana and New France. The former included, at the middle of the last century, the vast area drained by the Mississippi River and its tributaries, while New France embraced in like manner the St. Lawrence Valley and the country drained by the Great Lakes. The French claims to the St. Lawrence Valley began with the discovery of the river by Cartier in 1534. Champlain and other Frenchmen extended the discoveries and explorations to the upper waters of the river and to the lakes. Lake Erie was the last of the five great lakes to be discovered, and the first record of its navigation by whites is in 1669. The Mississippi was discovered by two Frenchmen—Joliet, a fur-trader, and Marquette, a missionary—who crossed the present State of Wisconsin from Lake Michigan and reached the great river in June, 1673. This discovery, followed by La Salle's voyage, in 1682, down the river to its mouth, gave the French a strong claim to the entire Mississippi Valley, just as the discovery of the St. Lawrence had earlier established their ownership of New France. Before this, probably as early as 1670, the Ohio had been discovered by La Salle, who went as far

down the river as the falls at Louisville. In 1671 the French with great ceremony proclaimed their ownership and possession of the entire northwest region, "already discovered and yet to be discovered."

7. Character of the French Occupation.—The colonization of the St. Lawrence and lake region by the French was carried on by three classes of people—soldiers, missionaries, and fur-traders. The soldiers erected forts to enable France to hold and to rule the country; the Jesuit missionaries built mission stations in order to convert the Indians; the traders established trading posts at convenient places for carrying on the fur trade with the Indians. Thus the French settlement of this region was very different from the English colonization along the Atlantic coast. The English colonist settled down in a fixed place to occupy the land and to establish a home. The French missionaries and traders wandered about in the vast northwestern regions, using the missionary stations and the military posts merely as centres for trading with the Indians and preaching to them.

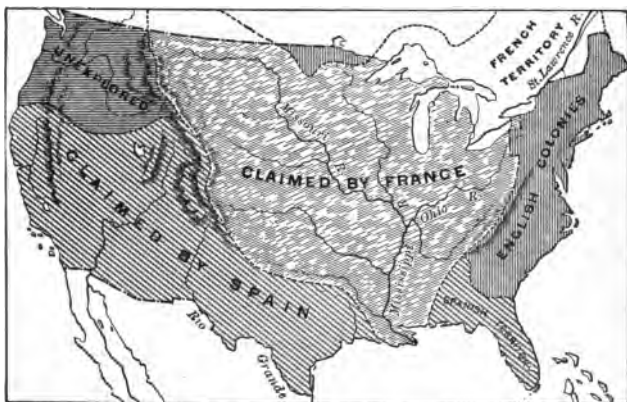
8. Ohio Before 1750.—For many years after the Mississippi was discovered, the only route taken by the traders between Canada and the great river was by Lake Michigan and the Illinois River; but early in the eighteenth century they began to use the much shorter route along the south shore of Lake Erie, up the Maumee River, thence overland a few miles to the Wabash, and down that river to the Ohio and the Mississippi. On the Cuyahoga, Sandusky, and Maumee Rivers temporary trading posts sprang up, but there was no French settlement, mission, or station within the borders of Ohio, before 1750, of which any trace remains. The region continued a wilderness along the edge of which the traders passed. Detroit, founded in 1701, was the centre from which the Maumee and Sandusky region was controlled, but the capital of New France was Quebec.

9. English Claims to the Territory.—Though the French explored, occupied, and used this inland region, England claimed the entire country from the Atlantic to the Pacific Ocean. Her claim was based on the voyage of Cabot, in 1498, along the Atlantic coast from Cape Breton to Albemarle Sound, but the discovery of the coast gave her no right to any part of the continent west of the head-waters of the rivers emptying into the ocean. No attempt was made by England or by her Atlantic colonies until the eighteenth century even to cross the Alleghany Mountains and examine the country claimed west of them. The English kings, however, acted as if there was no doubt of their ownership, for in the charter given to the London Company James I. fixed the western boundary of Virginia at the Pacific, and in 1662 Charles II., in granting a charter to Connecticut, set the same boundary for that colony. According to these charters, all of the present State of Ohio north of 41° north latitude was a part of Connecticut, and all south of that line belonged to Virginia.

10. Rivalry between France and England.—In 1748 the Ohio Company¹ was formed by London merchants and a few leading Virginians, to purchase and settle a tract in Western Pennsylvania, then claimed by Virginia. Alarmed by this movement on the part of the English to occupy land west of the Alleghanies, and by the encroachments of English traders who were coming into the Ohio country in considerable numbers, the French commander at Detroit warned the English to leave, and erected a fort at Sandusky—the first fort in Ohio. The French also began to build a chain of forts from the Ohio to Lake Erie, to defend the region against invasion from the east by the English. Neither the English government nor the colonists on the Atlantic had any thought of obeying the

¹ This company should not be confused with the later Ohio Company which, in 1788, made the first settlement in Ohio at Marietta.

warning of the French, and a struggle ensued for the possession of the country, which in 1754 burst into open war,



MAP SHOWING THE TERRITORY CLAIMED BY FRANCE AND BY SPAIN
(ABOUT 1750 A. D.).

known as the French and Indian War, that continued until 1763.

11. Important Results of the French and Indian War.—The French and Indian war (1754–1763) resulted in the complete overthrow of the French power in America. By the treaty of Paris, in 1763, the English obtained all the territory hitherto owned and occupied by France east of the Mississippi. The result of this war had a most important influence on the future of America. Though the French had the better title to the land by discovery and occupation, we must rejoice that they did not succeed in retaining it. The victory of the English settled once for all that the continent was to be English and not French; that the French government, with its tyrannical ideas and its disregard for the liberty and well-being of its people, should not extend its system on American soil, but that the settlers west of the Alleghanies, whether they came direct from England or from the Atlan-

tic colonies, should bring with them English civilization and love of liberty and of self-government. For, despite the faults of some of its rulers, the English government and the English notions of rights and liberties of the people were far in advance of those of any other European country. The States founded on this continent were, therefore, to be free States occupied by free men. The French and Indian War was the first important event in the civic history of Ohio.

12. English Rule.—Regardless of the grants made in the colonial charters of the previous century, the English government now treated this territory as if it belonged to the king, and had never been promised to any of the colonies. The king forbade all persons to settle or remain on any land west of the Alleghany Mountains. During the short time before the Revolutionary War broke out no settlements were made by the English or by the colonies. In 1774, Parliament annexed the entire Northwest to the province of Quebec, thinking, no doubt, that England would thus have no trouble concerning it during the difficulties just arising in the colonies. During the war the Indians in this back country, urged on by the English, harassed the colonies, and in 1778 an expedition under Colonel George Rogers Clark was sent out by Virginia to conquer the West. Descending the Ohio, he captured the English post at Kaskaskia (Illinois), and later surprised and took at Vincennes (Indiana) the British governor of Detroit and his entire garrison. Virginian troops remained in possession of the conquered territory until the close of the war. Clark must be regarded as one of the founders of the great Northwest, for, had it not been for his successful expedition, it is doubtful if England would have given up this vast territory to the United States.

13. The Northwest Territory.—Even before the close of the war, and before England had given up her title to

the land (1783), rivalry sprang up among the States as to the ownership of this unsettled wilderness beyond the Ohio. Virginia claimed the whole of it, by the charter of 1609, and by Clark's conquest, which had been made with Virginian troops; Connecticut claimed a part, under her charter of 1662; Massachusetts asserted her right to a strip north of Connecticut's, under a similar charter; while New York claimed a large part, on account of treaties with the Six Nations of Indians, who were at that time supposed to control this territory. The remaining States thought the lands ought to belong to the United States, and not to any one or few States. After several years of discussion the States were induced to give up to Congress their claims to the region on condition that the land should be sold for the common benefit of the States, and that the whole should at some future time be formed into new States, to be admitted to the Confederation on the same footing as the original States. Connecticut reserved for herself a strip between the 41st parallel and Lake Erie, extending westward one hundred and twenty miles from the boundary of Pennsylvania. This was called the "Connecticut Western Reserve." Similarly, an indefinite tract between the Scioto and Little Miami Rivers was reserved for the benefit of Virginia soldiers, and became known as the "Virginia Military District." Thus within a few years after the Revolutionary War closed the United States had become fully possessed of the rights which France and England had once had in what was soon called the "Northwest Territory."¹

14. The Indians.—The States were not the only claim-

¹ The Northwest Territory, as organized by Congress, included all the land between the Ohio River and the Great Lakes, extending westward from Pennsylvania and Virginia as far as the Mississippi River. It embraced all the territory now occupied by the States of Ohio, Indiana, Illinois, Michigan and Wisconsin, and a part of the State of Minnesota. (For its government, see paragraphs 16-18.)

ants of the soil of Ohio and the Northwest. The Indians, "the original and only rightful sovereigns and proprietors," were in possession, and Congress must negotiate with them before any settlement could rightfully be made on their lands. The first treaty was made at Fort McIntosh in 1785, by which the Indians agreed to give up a large part of what is now Ohio. A few years later, realizing that the settlement of the country by the whites must result in driving the red men entirely out of that region, the Indians began to attack the frontier settlements. Expeditions against them in 1790, under General Harmar, and in 1791, under General St. Clair, were defeated, and the raids upon the settlers continued until, in 1794, General Wayne put an end to the troubles by utterly defeating the Indians in a battle on the Maumee. The next year, at Greenville, a treaty was made which established peace on a firm basis and secured for the government nearly all the land in Ohio. It was not until 1818 that the United States obtained the Indian title to the entire State except one tract reserved for the Wyandot Indians. In 1842 this last Indian reservation in the State was sold, by treaty, to the United States, and in 1843 the last remnant of the former possessors removed to the far West.

15. Land Laws.—Until 1785, owing to the unsettled ownership of the western country, no settlements were made, though an occasional hardy pioneer had wandered in and begun to make himself a home. It was necessary that some provision should be made by which settlers could buy land. In May, 1785, Congress passed a law according to which the land was to be surveyed and divided into townships six miles square,¹ and each town-

¹ The lands in the Western Reserve are divided into townships five miles square, as are also those in the United States Military District, a tract in the eastern central part of the State, embracing several counties, reserved by Congress for the Revolutionary officers and soldiers. The land in the Virginia Military District was not surveyed

ship into sections one mile square. One section in each township was to be devoted to the support of schools, and the rest, with slight exceptions, was to be sold at a price fixed by the law. Many in the Eastern States now began to look toward the Ohio country, and plans for colonization and settlement became common. Companies were formed to buy large tracts and to send out colonies just as colonies had been sent from England to this country in the previous century.

16. The Ordinance of 1787.—While plans were thus forming for the settlement of the land, Congress was devising a government to protect those who should go out into the wilderness to plant the new State. As this was the first territory for which Congress had had to care, the task was a new and difficult one. It was successfully accomplished on the 13th of July, 1787, when the ordinance was adopted "for the government of the Territory of the United States northwest of the River Ohio." This document is one of the most famous in American history, ranking in importance next to the Declaration of Independence and the Constitution of the United States. Of it Chief-Justice Chase said: "Never, probably, in the history of the world did a measure of legislation so accurately fulfil, and yet so mightily exceed, the anticipations of the legislators. The ordinance has been well described as a pillar of cloud by day and of fire by night in the settlement of the Northwestern States. When the settlers went into the wilderness, they found the law already there."

into townships, but each holder of a land-warrant for any of the land was permitted to select any unoccupied land in the district and to have the requisite number of acres surveyed off for him in a tract of any shape he chose. The result has been confusion in land-titles in this district. In the French Grant, a small tract in Scioto county, the land was not laid off into townships, but into smaller rectangular lots. In the rest of the State the lands have been divided into townships six miles square.

17. The Form of Government.—The ordinance prescribed the form of government and the duties of the officers. The government consisted of a governor, who was to execute the laws and who was commander-in-chief of the militia, and of three judges who composed the highest court in the Territory. The governor and the judges together were to act as the legislative department; they were not to make new laws, but might select from the laws of the States, and put in force, such as they thought adapted to the Territory. The governor, the secretary, and the judges were to be appointed by Congress; all subordinate officers were to be appointed by the governor. As soon as there were five thousand free male inhabitants in the Territory, there was to be a legislature, consisting of the governor, a legislative council of five members, and a house of representatives elected by the voters. Thus the people were to begin sharing in their own government. Not less than three nor more than five States were to be formed from this Territory, with boundaries as laid down in the ordinance. When any one of the divisions attained a population of sixty thousand free inhabitants, it should be admitted into the Confederation on the same footing as the original States.

18. Education and Slavery.—A part of the ordinance was in the form of a compact that could not be changed except by the consent both of Congress and of the people. Two articles of this were of the highest importance. One asserted that, "religion, morality, and knowledge being necessary to good government, schools and the means of education shall for ever be encouraged." This clause was the starting-point of the excellent public-school systems of Ohio and the other States formed from the Northwest Territory, as well as of all the younger Western States which have followed the good example. The other article of the compact reads: "There shall be neither slavery nor involuntary servitude in the said Territory, otherwise than

in punishment of crime whereof the party shall have been duly convicted." The entire Northwest was by this simple sentence for ever closed to slavery, and the region was settled by people attracted by the broad principles of human liberty thus asserted. No one can doubt that much of the prosperity which has attended the Northwest for the last century is due to this early prohibition of slavery. One of America's most distinguished jurists has rightly said of this compact: "These articles contain what they profess to contain—the true theory of American liberty. The great principles promulgated by it are wholly and purely American. They are indeed the genuine principles of liberty."

19. The First Settlements.—In October, 1787, Congress appointed General Arthur St. Clair, a distinguished soldier of the Revolution, as governor of the Territory, which included all the land northwest of the Ohio River within the bounds of the United States. The first settlement under the authority of Congress was made April 7, 1788, at Marietta, at the mouth of the Muskingum, by the Ohio Company. This company, organized to purchase land and to make settlements, consisted of soldiers of the late war, most of them from Massachusetts. Other settlements were soon made along the Ohio and at several points on its tributaries by New Englanders and Virginians. The settlements along the shore of Lake Erie were made a little later. The governor and the judges formally established the new government at Marietta on July 9, 1788. A court was opened for the trial of cases, and the first laws were announced there.

20. Character of the Government.—The government, while it ensured order and safety for the inhabitants, was very different from that to which the people of Ohio are now used. The inhabitants of the Territory had no voice in selecting their officers or in making the laws. All power was in the hands of four men selected by Congress.

Oppression was possible, if the governor and judges were so inclined. We must remember that it was the first experience of Congress in ruling a Territory, that the government was provided for a region two-thirds as large as the entire thirteen original States, but with very few inhabitants, and that it was intended merely as a temporary government. Fortunately, during the short time that this form continued its officers so administered it as in no way to interfere with the liberties of the inhabitants. For many years the Territory had no capital. The governor resided at Cincinnati after the first year, and the laws were issued at Marietta, Vincennes, and Cincinnati. They related mainly to the militia, taxation, relief of the poor, highways, courts, and crimes and their punishment.

21. Second Stage of the Government.—In 1799, the population having sufficiently increased, the first territorial legislature was chosen. The people elected the members of one branch, or house, and these named ten men, from whom the President of the United States selected five, as the legislative council or second branch of the legislature. Every law framed by the legislature must be approved by the governor before it could go into effect. This idea was taken from the colonial experience of the States, where the governors chosen by the king had the right to veto any act of the colonial legislature. The judges had no share in making the laws, and attended simply to the business of the courts. The Territory now had the right to elect and send a delegate to Congress to represent it and to look after its interests.

22. The State of Ohio.—In 1800, Congress divided the Territory by a line drawn from the Ohio, opposite the mouth of the Kentucky River, to Fort Recovery, in what is now Mercer county, and thence to the British border. The eastern division, including Ohio, retained the old name, while the western was called Indiana. The capital of the eastern part was fixed at Chillicothe until the legis-

lature should otherwise order. By 1802 there were sixty thousand free inhabitants in that part of the Northwest Territory south of the present State of Michigan, and Congress accordingly authorized the people to elect delegates to meet in a convention for the purpose of making a constitution for the State about to be formed. The convention met at Chillicothe November 1, 1802, and completed the Constitution by the end of the month. With this as its organic law, the new State, to which the name of Ohio was now given, became a member of the Union, February 19, 1803.¹

23. The First Constitution.—The Constitution established a government divided into the usual three departments—legislative, executive, and judicial. The legislative authority was vested in a General Assembly consisting of two branches; the executive, in a governor; and the judicial, in a supreme court and certain subordinate courts. The General Assembly appointed nearly all the State officers and fixed their salaries, and had unusually great power as compared with the legislatures of other States, while the power given to the governor was very slight and inadequate. This was not accidental. Disputes had arisen between the territorial legislature and the governor, St. Clair, who was a well-meaning but injudicious and somewhat arbitrary man. The governor had refused his assent to several acts passed by the legislature, and had done some things which the people believed he had no right to do. As a result of this trouble they determined that in the State government they would confine the powers of the governor within very narrow limits. This was a serious mistake, for, while it is wise and necessary that

¹ There has been much discussion as to the exact date when Ohio became a member of the Union. The uncertainty has arisen from a doubt as to which of several legal steps constituted admission. The date given above is that of the act of Congress recognizing the existence of the State.

the legislature should be clothed with large powers, it is equally important that the governor should have ample power to carry out the laws, and especially that he should be able to prevent bad or hasty laws by interposing some sort of a check or temporary veto upon them. The Constitution of 1802 served the people of the State for fifty years, but was faulty in many ways, and not among the best even of that early day in the history of State constitutions.

24. Education.—The Constitution made it the duty of the General Assembly to give support to schools and the means of education. For some years nothing was done except to use for school purposes the income from the lands—one-thirty-sixth of the entire State—which Congress had given to Ohio for the support of common schools. This laid the foundation of the school system which has been built up, and for the support of which the citizens have for years taxed themselves heavily but willingly in carrying out the spirit of the ordinance of 1787. Congress had also given three townships for the support of colleges, and the lands were applied to their use by the legislature. It was not till 1870 that a State university, endowed by the United States and further sustained by State taxation, was founded at Columbus. In addition to these educational facilities, there are more than thirty colleges and a large number of seminaries and schools in the State which are not connected with the public-school system.

25. The Capital.—The capital of the Territory had been at Chillicothe after 1800, and the seat of the State government remained there until 1810, when it was temporarily moved to Zanesville. In 1812 it was moved back to Chillicothe, where it remained until 1816, when Columbus became the permanent capital.

Owing to imperfect surveys early in the history of the Northwest, and to the ignorance of Congress in 1802 as to the exact nature of the country, a dispute arose, in 1835,

between Ohio and Michigan over the boundary between the two States. It was settled by Congress in 1836 in favor of the claim of Ohio.

26. The People of Ohio.—The population of Ohio has come from several sources, with quite varied characteristics and political ideas. At the north, especially in the Western Reserve, the settlers were mainly from Connecticut, and the steady, religious, liberty-loving ideas and habits of New England have had great influence in the settlement and development of that part of the State. In a few of the southeastern counties the New England element was very influential. At the south and in the southwestern part the more genial and less sedate character of the people is due to the large number of Virginians who settled there. Through the central parts the population was more mixed, but contained large numbers of settlers from New York and Pennsylvania. At a later day came a steady flow of immigration from Europe, especially to the cities. These different elements have become blended, so that the average Ohioan derives his ideas and his habits from all; still, each has had a distinct influence on the development of the State, and to-day the traveller in Ohio easily detects differences in the people and customs of different sections. The government of Ohio, especially of the towns and counties, shows clearly the mixture of New England and Southern forms. "It was on Ohio soil that the people north and south first met and fraternized, and by their united and harmonious efforts transformed an unbroken wilderness into a rich and powerful State."

27. The Second Constitution.—As the State grew and the political and business interests became greater, experience showed some of the defects of its constitution and government. By 1850 the people had become convinced that they must be remedied, and a convention of delegates from each county was elected to revise the entire Constitution. The changes were few of them sweeping.

The courts were reorganized ; the power of the legislature was limited somewhat, and that of the governor very slightly increased. The memory of Governor St. Clair still served to prevent the convention from giving adequate powers to the governor. The people adopted the revised Constitution in June, 1851, and with slight amendments it is still in force. In 1873 another convention framed a new constitution, which the people voted not to adopt.

28. The Development of Ohio.—The history of Ohio has been one of peaceful development. With a good government established to preserve order, the people have devoted themselves to tilling the fields, working the mines, building railroads, and establishing manufactories, and have made the State one of the wealthiest and most influential in the Union. That is the best government which works with the least noise and secures peaceful happiness for its people. The government of Ohio, while not the best form of government in the United States, has served well the ends for which it was established. One governor after another, one General Assembly after another, one set of judges after another, has come and gone, and the State has prospered. She has built up schools and colleges, and is carefully supporting them. No State has done more for the care and comfort of the insane, the blind, the deaf and dumb, and other unfortunate persons among the citizens. When lawlessness has broken out the government has promptly checked the disorder, and has generally punished the offenders. In short, it has done that for which it was established as well as the machinery provided by the Constitution would permit.

29. Slavery and the Rebellion.—By the ordinance of 1787 slavery was for ever excluded from Ohio. Not only did this affect favorably the development of the State, but it also instilled into the successive generations of citizens a feeling of hostility to the entire system of slavery in the country. When the Rebellion broke out, it was therefore

natural that Ohio should take a prominent part against the rebellious States. Both in Congress, in planning ways and providing means to carry on the war, and in the field, in fighting the battles, her sons were among the foremost. She furnished over three hundred thousand soldiers, or more than one-tenth of the forces that fought in behalf of the Union. The three highest officers of the army, Grant, Sherman, and Sheridan, were born in Ohio. The effective patriotism of the citizens of Ohio in the cause of the Union and of freedom in those years of trouble may well be ground for pride and an incentive to loyalty for all future generations of Ohioans.

30. Ohio and the Union.—While prospering in her domestic affairs, few States have had a more important part in the history of the United States during the past half-century. For forty years she ranked third in population; in her industries she takes a high rank; while in



WILLIAM HENRY HARRISON.

political and governmental matters her influence has been most marked. Her public men have had a prominent place in the councils of the nation. Among both the State and national officers and on the rolls of Congress are the names of Ohio citizens who have had a large share in the achievements of our country. Among her great governors are Meigs, Worthington, Morrow, Corwin, Chase, Brough, and Hayes; among

her judges, McLean, Swan, Thurman, and Ranney; among the ablest of her representatives in Congress have been Corwin, Ewing, and Giddings, and in the United States Senate, Chase, Wade, Thurman, and Sherman; four presidents of the United States have been chosen

from Ohio—William Henry Harrison, Rutherford B. Hayes, James A. Garfield, and William McKinley—while two others, Ulysses S. Grant and Benjamin Harrison, were born in the State; two of the eight chief justices of the



RUTHERFORD B. HAYES.



JAMES A. GARFIELD.



WILLIAM MCKINLEY.

United States supreme court, and four of the associate justices, have been from Ohio; to the cabinet of the president, Ohio has furnished three secretaries of state, five secretaries of the treasury, three secretaries of the interior, four secretaries of war, three postmasters-general, and four attorneys-general.

31. The Future of Ohio.—In the century just closed Ohio has made a good record. What her history shall be during the next century depends on the youth of the State. Every free State is just what its citizens make it. If they are wise and patriotic, the government will be good and the laws just; if they are heedless and indifferent about public affairs, the government will be sure to decline. Every citizen is responsible for what is done by the State and local governments, for the people choose those who make and administer the laws. If bad laws are made or good laws are poorly enforced, it is the fault of the citizens who permit such things. Each one who does not at all proper times exert what influence he has in favor of honest government, and in favor of honest and patriotic men as officers, is an enemy of his State and his country. Upon the young men and women of our State depends its future welfare. If in the coming years they imitate the good deeds and the patriotism of the men of the last century, and avoid the mistakes and the selfish ambition which have sometimes been shown, they will carry the State to still greater achievements. By always placing the prosperity of our country above the success of any political party; the honest and fearless enforcement of law above any personal advantage to the official; and by yielding prompt obedience at all times to the laws as they exist, while seeking their improvement where possible, each one will be doing his duty as a citizen, and as a result, peace and prosperity will rest upon the State and its people.



THE GREAT SEAL OF THE STATE OF OHIO.

CHAPTER III.

THE STATE GOVERNMENT.



32. The Citizen.—According to the Constitution of the United States, “all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” Hence every person living in the State of Ohio, who was born in the United States and subject to its jurisdiction, or who having been a citizen of another country has renounced that citizenship and has been naturalized in the United States, is a citizen of Ohio. Since this is prescribed in the Constitution of the United States, the State cannot change it.

33. The Elector.—All citizens are entitled to the protection of the State and owe allegiance and obedience to it, but it was not thought best by those who framed the State government that all citizens should be given the right to vote. A citizen who has the right to vote is an

elector. The Constitution of the State prescribes who shall be electors.¹

34. The Government.—The government of the State of Ohio, like that of the other States, is vested in three departments—the legislative, the executive, and the judicial—among which are distributed all powers which the people desire to have exercised by the government.

THE LEGISLATIVE DEPARTMENT.

35. The Legislative Power.—While the three departments are necessary to the continuance of the government, the legislative is of the first importance, for laws must be made before they can be administered and applied by the other two departments. All laws of the State are made by the legislative department, but any act which is not in harmony with the Constitution of the United States and that of the State, may be declared void by the judicial department, when a case arises in the courts which involves the measure in question.

The legislative power of Ohio is vested in a General Assembly, or legislature, consisting of a Senate and a House of Representatives.² The General Assembly of Ohio exercises greater power than does that of most States, for it has the right to do by means of laws many things which are in other States settled by the constitution itself, or entrusted to other departments of the government. It is more independent of the executive department than in most States, since its acts become laws without submission to the governor for his approval; it has also the power to remove judges from office.³

The State laws deal with those subjects which concern the residents of the State both in their relations to the State and to the community, and in their every-day actions and

¹ See *Constitution, Art. V., and foot-note.*

² See *Art. II. Sect. 1.*

³ See *Art. IV. Sect. 17.*



THE CAPITOL BUILDING AT COLUMBUS.

business relations with one another. They provide for the organization and procedure of the courts; for the government of counties, townships, cities, and villages; for the establishment and support of schools and benevolent institutions; for the prevention and punishment of crime; for the levying of taxes to defray the expenses of the State government in all its branches; for the conduct of elections; for the formation and regulation of railroad, manufacturing, mining, and other business corporations; for the buying and selling of houses, lands, and goods, and for all lawful contracts that may be made by residents of the State. Thus it is seen that State law protects, guides, or restrains the citizen in nearly all his doings.

It is the business of the General Assembly to elect two citizens to represent the State in the Senate of the United States, as provided in the Constitution of the United States; and to divide the State into districts for the election of members of the national House of Representatives.

36. The General Assembly.—The members of the General Assembly are chosen at the general State election on the first Tuesday after the first Monday in November of each odd-numbered year (1903, '05, '07), and serve for two years from the first day of the following January. The General Assembly meets in regular session on the first Monday of January following the election (1904, '06, '08), and usually sits for five days each week for several months. The governor may convene the General Assembly in extraordinary session at other times. Members are paid a salary for their services; at present this is fixed by law at \$600 a year. They also receive twelve cents per mile for travelling expenses, reckoning the distance from their homes to the Capitol by the most direct route.¹ The Constitution specifies who are eligible to membership

¹ See Art. II, Sect. 31.

in the General Assembly, but each branch judges of the election and qualifications of its own members, and prescribes its own rules of procedure in transacting business.¹

37. The Senate.—The State is divided into thirty-three senatorial districts, the number and boundaries of which were fixed by the Constitution in 1851, and can be changed only by amendment of the Constitution, except in one class of cases. Each district embraces one or more counties. While the number of districts is fixed, the number of senators depends on the population of the State. Every ten years the population of the State, as determined by the national census, is divided by thirty-five, and the quotient is used as the basis of representation in the Senate for the next ten years; that is, this is the normal number of people to be represented by one senator. It is, however, provided that every senatorial district having three-fourths this number of inhabitants shall have one senator; districts having two full ratios shall have two senators; those having three ratios shall have three senators, and so on. Provision is also made for additional senators in one or more of the biennial periods during the decade, from those districts having a fraction greater than one-fifth over an even ratio. This causes the number of senators to vary in different legislatures.² When any county forming part of a district acquires population equal to a full ratio, it may be made into a new district by itself, if the remainder of the old district to which it belonged has also population sufficient for one senator. This is the only case in which the number of districts can be changed except by amending the Constitution.³ The

¹ See *Art. II, Sects. 3-8.*

² The membership of the Senate for the five General Assemblies from 1901 to 1911 is as follows: 1902-03, 33; 1904-05, 33; 1906-07, 37; 1908-09, 34; 1910-11, 34.

³ See *Art. XI, Sects. 6-10.*

decennial apportionment of senators is made by the governor, the auditor, and the secretary of state.¹

Each senator is chosen by the electors of the district which he represents, and he must have been a resident of that district for at least one year.

All impeachments of State officers charged with misdemeanors in office are tried by the Senate.² Appointments to many offices made by the governor must be submitted to the Senate for confirmation.

38. The House of Representatives.—The number of members of the House of Representatives varies slightly in different legislatures,³ and is determined by the same officers and by a process similar to that employed for the Senate. Every ten years the population of the State is divided by one hundred, and the quotient is the ratio of representation for the ensuing ten years. Any county the population of which is not equal to one-half this ratio is joined with the neighboring county having the smallest population, to form a representative district; except in such cases each county constitutes a separate representative district, and the number of representatives from each district is determined by its population as measured by the ratio of representation; additional representation for some of the biennial periods is given for fractions over one-fifth of a ratio, as in the case of the Senate.⁴ Each member is chosen by the electors of the district, and he must have been a resident of the district for at least one year before his election.

The House has the sole right to institute impeachment proceedings against State officers charged with misdemeanors.²

¹ See *Art. XI. Sect. 11.*

² See *Art. II. Sect. 23.*

³ The membership of the House of Representatives for the present decennial period is as follows: 1902-03, 110; 1904-05, 110; 1906-07, 113; 1908-09, 109; 1910-11, 111.

⁴ See *Art. XI. Sects. 1-5.*

39. Organization of the Two Houses.—Each branch of the General Assembly has a presiding officer, clerks to prepare and record the business, sergeants-at-arms, and other necessary officers and attendants. The lieutenant-governor of the State is president of the Senate. That body chooses one of its own number as president *pro tempore*, who presides in the absence of the lieutenant-governor. The presiding officer of the House of Representatives is called the speaker, and is chosen by the members from their own number.

40. Committees.—An important part of the legislative work is done by committees. The usual subjects of State legislation fall into about forty classes or groups. For each of these groups a standing committee in each branch of the General Assembly is appointed early in the session, by election in the Senate, and by the speaker in the House; proposed laws are usually referred to the proper committees for consideration before they are taken up in the house. The committee examines the proposed measure, and if it meets their approval they report it back, either in the original or in a modified form, and recommend its adoption; if they disapprove it, they either make no report or an adverse one. While the legislature is not bound to acquiesce in the decision of the committees, the latter really exercise a guiding power on legislation, by deciding, to a great extent, what measures shall be considered by the legislature. Their examination, improvement, approval or rejection of the different proposals makes it possible for the General Assembly to transact business far more rapidly than it could otherwise be done.¹

¹ In the General Assembly of 1894 there were thirty-eight Senate committees and forty-two House committees. Some of the leading committees are—finance, judiciary, municipal corporations, private corporations, railroads and telegraphs, agriculture, manufactures and commerce. The Senate committees usually consist of five or seven members, while those of the House have as a rule seven or nine members.

41. Law-Making.—The process of law-making by the General Assembly of Ohio is in most respects similar to that in the Congress of the United States, and is intended to secure careful consideration of measures before they become laws. Proposed laws may originate in either house but may be amended or rejected in the other. Such proposed measures are called "bills," and become laws or acts only on their adoption by both houses. The formalities prescribed by the Constitution, in the passage of laws, with a few regulations adopted by the General Assembly, are briefly as follows: On its introduction or proposal in either house the bill is read before the house and is usually referred to the appropriate committee, though bills may be passed without such reference. All bills must be fully and distinctly read on three different days, unless in case of emergency the house shall vote to dispense with this rule.¹ The object of this is to prevent hasty legislation. Every bill must be printed before it is read the second time, and on the passage of the bill (that is, the vote after the third reading) in either house the vote must be taken by yeas and nays, and entered on the journal. Every bill in order to be adopted must receive the affirmative vote of a majority of all the members of the house.² The principal discussion takes place after the second reading and at the time of the third reading, and the bill may be amended at this stage.

After it has passed the house in which it originated it is sent to the other house and is subjected to the same routine. Any amendment made in the second house must be agreed to by the other house in order that the measure shall become a law.³ After the bill has passed

¹ See *Art. II. Sect. 16.*

² See *Art. II. Sect. 9.*

³ In cases of difference between the two houses relating to amendments to a bill, the subject is referred to a committee of conference from the two houses. This committee endeavors to arrange an agreement or

both houses it is enrolled—that is, a fair copy is made—by the clerk of the house in which it originated, and this copy is signed by the presiding officer of each house in the presence of the house, and the measure is then a law. This copy when thus signed is sent to the secretary of state, by whom it is preserved in the archives of the State.

42. Restrictions on Law-Making.—Except where prohibited and restrained by the Constitution of the State or of the United States, the General Assembly has the power to make laws on such subjects as seem fitting to the Assembly itself. There are, however, several important restrictions in the State Constitution on this power. No law may contain more than one subject, which subject must be clearly expressed in the title. This is in order to prevent the passage of objectionable measures under an innocent or misleading title, or by attaching them to bills on a different subject which are certain to pass and may in that way carry the bad measure also. No retroactive law may be passed.¹ No appropriation of money may be made for a period longer than two years. All private or business corporations must be formed under general laws, not by special act. This is intended to prevent the legislature from granting special rights and privileges to one business corporation which are not enjoyed by all others of the same sort. All cities and villages must be incorporated under general, not special laws. No one's political or civil rights or privileges may be interfered with or affected on account of his religious belief. The legislature may not authorize lotteries, nor the grant of licenses to sell intoxicating liquors. There are several other restrictions of less importance.

compromise, which must be submitted to the two houses for approval. If no agreement on the amendments is reached, the entire measure fails.

¹ A retroactive law is one that takes away or impairs vested rights acquired under existing laws, or imposes new duties or disabilities because of things done before the law is passed.

THE EXECUTIVE DEPARTMENT.

43. The Executive Department.—The best constitutions are those which give to each department of the government all the power necessary to the satisfactory performance of its proper share of the work of the State. A strong executive department is as essential to good government as is a wise legislature. Few American States have given the executive branch too much power, but in several, including Ohio, some important powers properly exercised by this branch of a government have been withheld from it.

According to the Constitution the executive department of Ohio consists of a governor, lieutenant-governor, secretary of state, auditor of state, treasurer, and attorney-general.¹ Provision has been made by the General Assembly for several other officers and boards whose duties are executive or administrative in their nature.

44. Election of Executive Officers.—All of the executive officers named in the Constitution are elected by the people at the general State election on the Tuesday after the first Monday in November. The governor, lieutenant-governor, auditor, treasurer, and attorney-general are chosen in the odd-numbered years; the secretary of state in the even-numbered. The auditor is chosen for a term of four years, the others for a term of two years each. The term of service of all of these officers begins on the second Monday of January following their election.²

45. The Governor.—The supreme executive power of the State is vested in the governor. It is his duty to see that the laws are faithfully executed, to inform the General Assembly at every session of the condition of the State and its public affairs, and to recommend to it such measures as he deems expedient for their consideration. He is the commander-in-chief of the military and naval forces

¹ See Art. III. Sect. 1.

² See Art. III. Sects. 1 and 2.

of the State, except when they are called into the service of the United States. He has power to appoint, subject to the consent of the Senate, a number of administrative officers and boards; to fill vacancies in certain offices and boards;¹ to grant reprieves, commutations, and pardons for all crimes and offences, except treason and cases of impeachment. Applications for pardon are first considered by a board of pardons, who hear the case and make recommendations to the governor. He has power to convene the General Assembly on extraordinary occasions, and in case of disagreement between the two houses as to adjournment he may adjourn them to such time as he may think proper. He is the keeper of the seal of the State, and affixes it to all grants and commissions, and to such other documents as the law requires. A general record must be kept in the governor's office of all official acts, proceedings, and appointments of the governor. The salary of the governor is \$8000 a year, and his term of office two years.

46. The Veto Power.—In most States every bill passed by the legislature must be submitted to the governor, and if disapproved (vetoed) by him becomes a law only when passed again by each house by a vote larger than a mere majority, in most States two-thirds. The Constitution of Ohio does not give the governor any such share in legislation.²

47. The Lieutenant-Governor.—The lieutenant-governor is chosen for a term of two years. He is the pres-

¹ See *Art. III. Sect. 18; Art. VII. Sect. 3.*

² The only other States in which the governor has not the veto power are Rhode Island, Delaware, and North Carolina. The participation of the governor of a State in the law-making is a wholesome check on the passage of unwise or unnecessary, impracticable, and hasty laws. A great many persons in Ohio are in favor of giving the governor the veto power, and it would seem to be a wise thing if the Constitution were so amended.

ident of the Senate. In case of the death, impeachment, resignation, removal, or other disability of the governor, the lieutenant-governor fulfils the duties of the office until the end of the term or the removal of the disability. If in like manner the lieutenant-governor is unable to act as governor, the president *pro tempore* of the Senate acts in that capacity. The salary of the lieutenant-governor is \$800 a year.

48. The Secretary of State.—The secretary of state is chosen for a term of two years. He is the custodian of all laws and resolutions passed by the legislature, and it is his duty to see that correct copies are prepared for publication, and to distribute them when published, as provided by law. He is the keeper of the official bonds of many of the public officers; all commissions issued by the governor are countersigned by him, and a record of them kept in his office; he is the purchasing agent and custodian of all stationery for the General Assembly and State officials; he gathers and publishes annually a volume of statistics concerning the public and business interests of the State; the articles of incorporation of every private corporation organized in the State must be filed with him, and a copy certified by him constitutes the charter of the corporation empowering it to carry on business.

He is the supervisor of elections; he prepares through deputies in each county and delivers to the local election clerks in each voting district in the State, the ballots to be used in all elections for State officers, members of the legislature, judges, and county officers, as well as for representatives in Congress and presidential electors; he receives and preserves the official results in the cases of all national, State, and county officers who receive their commissions from the governor; he tabulates and publishes the returns of all State elections.

Through his office official communications with other States and with the United States are received and sent.

Several other important duties are laid on him by law in connection with the ordinary business of the State. He receives as salary and compensation for extra services \$4000 a year.

49. The Auditor of State.—The auditor of state is chosen for a term of four years. He is the chief accounting officer of the State. He keeps in his office full accounts of all the financial transactions of the State government, and no money can be paid out of the State treasury except on his order, or received, unless accompanied by his certificate showing the treasurer on what account the money is paid. He examines the condition of the State treasury quarterly and reports the same to the governor. He performs many other duties connected with the business and financial affairs of the State. His salary is \$3000.

50. The Treasurer.—The treasurer is elected for a term of two years. Before he enters upon his office he is required to give a bond, acceptable to the governor, in the sum of \$600,000 for the faithful performance of his duties. He receives and takes care of all money paid to the State, and pays it out upon warrants of the auditor of state issued in accordance with appropriations made by act of the General Assembly. He is required to publish a monthly statement of the condition of the treasury, and an annual statement of all receipts and disbursements of public moneys. His salary is \$3000.

51. The Attorney-General.—The attorney-general is elected for a term of two years. He is the legal adviser of the State officials and of the boards having charge of the State institutions, and is required to furnish opinions upon any question of law submitted to him by the General Assembly. He represents the State in all cases in the supreme court in which the State is directly interested, and may be required by the governor or General Assembly to appear in behalf of the State in any case in other

courts when the State is a party. He receives a salary of \$1500, and for certain services performed for the State may receive fees not to exceed \$1500 additional.

52. The Commissioner of Common Schools.—The office of commissioner of common schools, though not created by the Constitution but by act of the legislature, is one of the most important and is properly classed with those already discussed. The commissioner is elected for a term of three years, and enters upon his office on the second Monday of July following his election. It is his duty to collect and transmit to the legislature information concerning the condition, expenditures, and needs of the common schools of the State, together with recommendations for their management and improvement. He exercises such supervision over the educational funds of the State as is necessary to secure their safety and rightful application. He is required to visit annually each judicial district in order to confer with school officers and counsel teachers where occasion demands; it is his duty to interpret and explain for the benefit of teachers and school authorities the school laws of the State. The functions of the commissioner are thus largely advisory, and he has not so much authority to direct and control the administration of the work of the schools as is usual in other States. He receives a salary of \$2000, and his travelling expenses are paid by the State.

53. Other Administrative Officers and Boards.—In order properly to perform the work of the State government, the legislature has created several additional officers and boards to assist in administering the government. They are appointed by the governor with the consent of the Senate. Their terms of office vary in length, but in most cases are two years. The following is a list of such administrative officers: the commissioner of railroads and telegraphs, the superintendent of insurance, the inspector of mines, the commissioner of statistics of labor, the super-

intendent of public printing, the State librarian, the State inspector of oils, the commissioners of fisheries, the inspector of workshops and factories, the dairy and food commissioner,¹ the State geologist, the State board of agriculture,² the live-stock commissioners, the board of State charities, the State board of health, the State board of pardons, the forestry bureau, the State board of pharmacy, the State board of dental examiners, the State board of veterinary examiners, the State board of medical examiners.³

54. The Board of Public Works.—This board has been of great importance in the history of the State, and though the works of which it has charge are no longer of such vital concern to the State as formerly, it still deserves special attention. In the first half of the century the State constructed at public expense an extensive system of canals between the Great Lakes and the Ohio River. For many years these were of great utility in enabling the products of the State to be transported to markets. They are still maintained, and the board of public works has charge of the system with the power and duty to maintain, keep in repair, and protect them, to regulate the tolls, and to appoint all subordinates and employés necessary to the care and operation of the canals. The board consists of three members elected, one each year, for a term of three years.

55. Boards in Control of State Institutions.—One

¹ The office of dairy and food commissioner was changed from an appointive to an elective office in 1891.

² The State board of agriculture is elected by representatives of the county agricultural societies.

³ The teacher should familiarize himself with the duties of all these officials, by a study of the laws creating the offices. The Revised Statutes of the State, a copy of which is probably to be found in every city and village of the State, contain full information on the subject. If a copy cannot be consulted, a letter of inquiry addressed to the officers themselves at Columbus will doubtless receive a reply containing the desired information.

great branch of the work of the State government is the provision for, and care of, some of the dependent classes, such as the soldiers' and sailors' orphans; the defective classes, such as the blind, the deaf and dumb, and the insane; and the punishment, by imprisonment, of convicted criminals. Large institutions have been established¹ for these purposes, and their management and regulation are placed in the hands of boards of trustees appointed by the governor with consent of the Senate. The usual number of trustees is five, and their term of office five years. There are also three institutions for higher education, supported by the State, and an agricultural experiment station, each under the control of a board of trustees appointed by the governor.

Thus it is evident that a large part of the work of the State is of a sort not directly indicated or provided for by the Constitution, and is performed by officials created by the General Assembly to fulfil needs of the people, and involves the raising and expenditure of large sums of money.

56. The Militia.—According to the Constitution all male citizens of the State between the ages of eighteen and forty-five years, except persons who may be exempted by law, are enrolled in the militia. This enrolment does not entail any drill or service in time of peace, and merely implies liability to service in time of war. There is, however an organized, active militia, known as the Ohio National Guard. It is composed of volunteers of military age, who enlist for a period of five years. According to law the National Guard may consist of one hundred and two com-

¹ These institutions are the Institution for the Blind, the Institution for the Education of the Deaf and Dumb, the Institution for the Education of Feeble-Minded Youth, the Girls' Industrial Home, the Ohio Soldiers' and Sailors' Orphans' Home, the Ohio Soldiers' and Sailors' Home, Boys' Industrial School, six Hospitals for the Insane, the Hospital for Epileptics, the State Penitentiary, and the State Reformatory.

panies of infantry, eight batteries of light artillery, two troops of cavalry, three companies of engineers, and eight companies of naval militia. They are organized into regiments and battalions and are officered and drilled as prescribed by law. The governor is commander-in-chief of the forces of the State, except when they are called into the service of the United States. The adjutant-general appointed by the governor is the chief of the governor's staff and is the real administrative officer of the military department. It is the duty of the militia, whenever summoned by the proper officers, to aid the civil authorities in suppressing tumults, riots, mobs, or other threatened or actual disturbances of order, beyond the control of the ordinary officers of the peace.

57. Taxation and Revenue.—In order that the executive or administrative department of the government shall be able to carry out the wishes of the people as expressed in the laws passed by the legislature, it is necessary that a large revenue be obtained from the people to meet the expenses involved. One of the most troublesome of the problems of governing is the raising of sufficient means for these purposes. The main source is taxation. The State is forbidden to levy a poll-tax—that is, a tax on persons. Hence, whatever taxes are levied by the State government must be on property or on occupations. The Constitution prescribes that they shall be levied by a uniform rule on all moneys, credits, investments in bonds, stocks, joint-stock companies, and on all real and personal property. Every law levying a tax must specify the purpose for which it is levied.¹ The General Assembly has provided for the raising of revenue in several different ways and from some other sources than direct taxation. The following are the chief sources of State revenue at present: Taxes on real and personal property, on the capital stock of corporations, on the gross receipts of ex-

¹ See *Art. XII.*

press, telegraph, telephone, transportation, electric light, gas, and certain other corporations doing business in the State, on the liquor traffic, on premiums earned by insurance companies in the State; fees received from new corporations at the time of their incorporation, from insurance companies, from building and loan associations; tolls and water-rents derived from the canals belonging to the State; sale of canal lands.

THE JUDICIAL DEPARTMENT.

58. The Judicial Power of the State is vested in a supreme court, circuit courts, courts of common pleas, courts of probate, justices of the peace, police and mayors' courts.¹ The legislature has power to establish such other courts below the supreme court as it deems best.

59. The Supreme Court.—The supreme court is the highest court in the State, and consists of six judges elected, one each year, for a term of six years. The law provides that the court shall be organized in two divisions consisting of three judges each; that the two judges having the shortest unexpired term shall be the chief justices of their respective divisions, and that the elder in service of the two shall be chief justice of the whole court; that each division shall have the power to try cases, and that decisions by either division shall be regarded as decision by the court, but where the judges of either division divide in their decision of a case, or whenever a case involves the constitutionality of an act of the General Assembly or of Congress, it must be reserved for the decision of the whole court. Whenever the whole court is evenly divided as to the decision of a case brought from a lower court the judgment of the lower court is to be regarded as affirmed.

A term of the supreme court must be held in Columbus in January of each year, and special and adjourned terms may be held at such times and places as the court may determine. The salary of each judge is \$6000.

¹ See Art. IV. Sect. 1.

60. Jurisdiction of the Supreme Court.—The jurisdiction of the supreme court is both original and appellate. By original jurisdiction of a court is meant authority to try cases begun in that court; by appellate jurisdiction is meant the authority to review or re-try cases which have been first tried in a lower court and, the decision there given having been unsatisfactory to either party, have been brought to the higher court for rehearing by some process provided by law.¹ The original jurisdiction of the supreme court is limited to a few kinds of proceedings mentioned in the Constitution.² Most of the cases tried in this court come before it on writs of error, that is, the chief business of the court is reviewing cases that have been once tried in a lower court. The object of the trial in the supreme court is to determine whether the law was correctly interpreted and applied in the first trial. No jury is had in the supreme court and no new evidence as to the facts in the case is admitted. The evidence and proceedings in the lower court, and usually the arguments of the lawyers on the two sides as to what the law in the case is, are submitted in printed form to the supreme court. The decision of the court either affirms that of the lower court, modifies it, reverses it, or sends the case back to the lower court to be tried again. The decision of the supreme court is final except in certain cases in which the Constitution or laws of the United States are involved, which cases may be appealed to the United States

¹ The processes by which cases are brought before a higher court are two, appeal and writ of error. Under the former the whole case both as to the facts and the law may be re-examined; under the latter the higher court merely examines and decides as to the law applicable to the facts in the case, the only ground for the examination being that the lower court is claimed to have made an error in its application of the law. The latter is the only process by which cases can be brought before the supreme court for rehearing.

² See *Art. IV. Sect. 2.*

supreme court. The decisions of the supreme court are important guides for the lower courts and for the people, in understanding the meaning and application of the laws. They are, therefore, published in full, in volumes issued from time to time. The court appoints a person known as the supreme court reporter to prepare its decisions for publication.

61. The Circuit Courts.—The State is divided into eight judicial circuits, in each of which there is a court known as the circuit court. It consists of three judges, elected, one every two years, for a term of six years by the voters of the circuit. Each judge receives a salary of \$4000. Two terms of the court must be held annually in each county of the circuit. Two judges constitute a quorum for the hearing of cases. The court has both original and appellate jurisdiction. Its original jurisdiction extends to the same kinds of cases as that of the supreme court, but only to such as arise within the circuit. Its main business is the rehearing of cases on appeal, or in error, from the next lower court. A case decided in the circuit court may be carried by writ of error to the supreme court.

62. The Courts of Common Pleas.—The State is also divided into ten judicial divisions known as common pleas districts, which where they contain three or more counties are divided into three subdivisions each. In each of these subdivisions and in each undivided district one or more judges are elected for terms of five years. The salary of each is \$2500.¹ The judges in a subdivision do not sit together as a single court, but each holds a separate court. In this way the trial of cases can be had much more speedily. There must be held annually at least three terms of the court in each county.

The common pleas courts are the courts in which far the

¹ In a few of the subdivisions where the business of the courts is very heavy the legislature has authorized the payment of a larger salary. The regular salary of all judges thus far mentioned is paid out of the

largest part of the important cases are begun. These courts have original jurisdiction in all civil cases where the amount involved is more than one hundred dollars, and appellate jurisdiction from the inferior courts in all other civil cases. This court has original jurisdiction of all crimes and offences, except of those minor misdemeanors the trial of which is given exclusively to justices of the peace, probate courts, mayors' and police courts.¹

63. Justices of the Peace and Municipal Courts.—In every township of the State one or more justices of the peace are elected who have authority to try civil cases involving small amounts; also to try persons charged with the commission of petty offences and misdemeanors. A full description of the powers and duties of these important officers is given in the account of the township government. In some of the cities and villages of the State are found mayors' courts or police courts, having authority to try and punish persons for petty offences and for violation of local ordinances.

64. The Probate Court.—The Constitution makes provision for the establishment of probate courts by requiring that there be elected in each county a probate judge for a term of three years. The chief work of the court consists in looking after the settlement of the estates of deceased persons, and appointing guardians for children and incompetent persons. The law provides what shall be done with the property of a person who dies without leaving any written directions, called a will, as to its disposition. It is the duty of the probate court to appoint an administrator in such cases to settle the estate and distrib-

State treasury; any extra salary, if authorized at all, is paid by the county.

¹ The superior court of Cincinnati is a court similar in jurisdiction to the common pleas court, and serves mainly as an additional court for Cincinnati, relieving to some extent the common pleas court of Hamilton county.

ute the property as the law directs. All the transactions of the administrator must be examined and approved by the court. When a person dies leaving a will disposing of his property, the will must be "probated," that is, submitted to the probate court for decision as to its legality and genuineness; if accepted it is put on record, and it becomes the duty of the court to see that its provisions are strictly carried out. The probate court also issues all marriage licenses, and in most counties has jurisdiction for the trial of misdemeanors. The court of common pleas has appellate jurisdiction in most matters that can come before the probate court.¹

65. Clerks of the Courts.—Each of the courts, except that of the justice, has a clerk whose business it is to record its proceedings and to preserve its papers.² The clerk of the supreme court is elected by the voters of the State for a term of three years. The clerk of the county in which the circuit or common pleas court is sitting, acts as clerk of these courts.

¹ See *Art. IV. Sects. 7, 8.*

² The probate judge usually acts as clerk of the probate court.

CHAPTER IV.

COUNTY AND TOWNSHIP GOVERNMENT.



THE COUNTY.

66. The County.—It would be difficult, if not impossible, that the public interests and private rights of the people scattered over a State should be carefully guarded, and the administration of their government properly conducted, if they were left to the direct management of the State officers at the capital. Even if this were possible, it has been from the earliest times one of the principles of English liberty, which the American governments from colonial days have applied, that local communities should be permitted through their own officers to look after their own affairs, so far as it could be done without disturbing the interests of the whole State. These two facts have brought about the subdivision of every American State for governmental purposes. In Ohio the first subdivision is into counties. The county has the double duty of acting as a State agency in administering State laws within the county, and of looking after public matters which concern the county and its inhabitants, apart from the rest of the State. The county work is, in the main, administrative and judicial; there is no true legislative department. The laws in a State are supposed to be uniform and are made by the State; on a few subjects, however, the counties, through their proper officers, do make regulations which have the force of laws; as, for example, the

county commissioners have the power to fix and to change the boundaries of townships, and to appropriate money for county purposes.

The State of Ohio is composed of eighty-eight counties, each of which has its own officials. The General Assembly has the power to determine the form of the organization, and the number and duties of the officers of the counties.¹ No new county may be organized containing less than four hundred square miles, except that any county containing 100,000 inhabitants may, on vote of its electors, be divided by the legislature, but neither division shall contain less than 20,000 inhabitants.²

67. The County-seat.—For the proper conduct of its business each county must have suitable buildings for its courts, jail, and offices. The place where these are located is known as the county-seat. It is usually near the centre of the county. After it has once been located as prescribed by law, it may not be changed or moved except by vote of the electors of the county, after a law has been passed by the legislature authorizing such removal.³

68. The County Officers.—The officers of the county may be arranged in two groups: those whose duties are executive or administrative, and those whose duties are connected with the courts sitting in the county. The first group consists of the commissioners, the auditor, the treasurer, the recorder, the surveyor, the infirmary directors, and the coroner; the second group consists of the sheriff, the clerk of the courts, and the prosecuting attorney.³ All these county officers are chosen by the electors of the county on the Tuesday after the first Monday in November, for such terms, not exceeding three years, as

¹ See *Art. X. Sect. 1.*

² See *Art. II. Sect. 30.*

³ The county school examiners, whose duties in connection with the schools are of great importance, are considered in the chapter on Education, on page 81.

the General Assembly may provide.¹ Vacancies in any of these offices are filled by appointment of the commissioners or other authorized county officers. The term of office of the sheriff, the coroner, the prosecuting attorney, the treasurer, the recorder, the surveyor, and the infirmity directors begins on the first Monday in September; of the clerk of the courts on the first Monday in August; of the commissioners on the third Monday in September; of the auditor on the third Monday in October, after their respective elections.²

Many of the county officers are permitted by law to appoint deputies to assist them in performing the duties of the offices.

69. The Commissioners.—It is necessary that the general supervision of the affairs of the county should be placed in the hands of some person or board. Two systems for assigning this power have prevailed among the States north of the Ohio River. In one the general direction is in the hands of a board of supervisors made up of one member from each township or city ward in the county, and chosen by the electors of such township or ward; in the other, commissioners are elected by the people of the entire county. Ohio has the latter system.³ In each county there is a board of three members known as county commissioners. One commissioner is chosen

¹ See *Art. X. Sect. 2.*

² The date for entering on the duties of the county offices has been frequently changed. It is entirely subject to the will of the legislature, save that it cannot be changed so as to shorten the term of any one in office at the time of the change.

³ The system of Ohio was derived from that prevalent in Pennsylvania, thus showing the influence of former Pennsylvanians in the early days of the new State. The county is the real unit in this system. The other system is derived from that of New York, where the township is the unit and the county is a group of townships. For a study of this system the State of Michigan affords the best field.

each year for a term of three years. In most counties the commissioners receive a compensation of three dollars a day while employed in official duties.¹

The commissioners are the general administrative officers of the county, and have supervision of its property and of its affairs, except such as by law have been given into the charge of other officials. They also exercise whatever powers of a legislative nature belong to the county.² It is their duty to erect, when they deem it necessary, and to maintain a court-house, a jail, offices for the county officers, and infirmaries; to construct and repair bridges over rivers and canals on State and county roads, except in some cities and villages; to borrow money for any of these purposes or for the support of the poor. They have power to lay out and provide for the construction of county roads, and they may establish children's homes in the county, after the matter has been submitted to the voters of the county and approved. The commissioners also determine the amount of money necessary to meet the expenses of the county, and levy the taxes for the purpose of raising it. They have power to sue and be sued in the courts in behalf of the county. Except where the amount to be paid is fixed by law, no claims against the county can be paid unless they have been allowed by the commissioners. They have supervision over the other officers, many of whom are required to make annual reports to them. They, in turn, make an annual report to the court of common pleas, to which court also an appeal may be taken from any decision of the commissioners involving the payment of claims. They have power to change the bound-

¹ In several counties a fixed annual salary is paid. There is much variation in the amount of this in different counties.

² In Hamilton county there is a board of control whose consent is necessary to most acts of a financial nature passed by the commissioners.

aries of the townships, to create new townships, and to do many other things pertaining to the affairs of the county.

70. The Auditor.—The county auditor is elected for a term of three years. He is the chief financial officer of the county. He is secretary of the board of commissioners,¹ and is required to keep an accurate record of all their proceedings. He must keep an account of all moneys paid to the county treasurer and paid out by him. He issues warrants for all moneys to be paid out of the treasury, either in pursuance of law or upon claims allowed by the commissioners.

It is his duty to make a complete list of all the taxable property in the county as furnished by the assessors, and having received from the proper officers a statement of the amount or rate of taxes to be levied for State, county, township, city, and other local purposes, to determine the sums to be paid by each property-owner in the county. He must furnish the county treasurer with a duplicate of this tax list. He is the county sealer of weights and measures, and it is his duty to compare all measures brought to him with the copy of the State standards in his office. His compensation consists of fees and a salary which is determined by law and varies with the population of the county.

71. The Treasurer.—The county treasurer is elected for a term of two years, but no person is eligible to the office for more than four years in any period of six years.² He collects all taxes as specified in the duplicate list furnished him by the auditor, and receives all other moneys

¹ In a few counties this is not the case. It must be borne in mind that the General Assembly has power to change at will the duties of county officers, and a great mass of special legislation applicable to single counties is found on the statute-book. The exact duties and compensation of the officers in each county can be determined only by a careful examination of these special laws.

² See *Art. X. Sect. 3.*

paid to the county ; but except the taxes he can receive no money, and except payments to the State can pay out none, without the order of the county auditor. If a taxpayer does not pay his taxes within the time specified by law, the treasurer is empowered to seize the property on which taxes are due and sell it at public sale ; after deducting the amount of the taxes and costs of the sale, the remainder, if any, is paid to the former owner.

The treasurer must settle twice a year with the auditor for taxes collected and make a full settlement with the commissioners annually. As the taxes collected by him include those levied for State, and, with some slight exceptions, for city, township, and school purposes, it is his duty to pay over to the State treasurer and the local treasurers the sums collected for them. Semi-annual inspections of the treasury are made by the auditor and the commissioners, and another examination by a committee designated by the probate judge or court of common pleas. The compensation of the treasurer is paid in the form of a percentage of the taxes collected.

72. The Recorder.—It is important that the legal ownership of the lands in the county should be known, in order that those who desire to purchase may know whether the seller has a good title to the land he proposes to sell, and that the officers may more easily levy and collect taxes. It is therefore provided that all deeds, mortgages, and other papers transferring or affecting the ownership of real estate shall be publicly recorded at the county-seat. It is the duty of the recorder to record or copy when brought to him all such deeds, mortgages, and other papers as the law may require, in books provided for the purpose. These books are carefully indexed and are open at all proper times to the inspection of the public. The recorder is elected for a term of three years and for his services receives fees varying according to the length and character of the papers recorded.

73. The Surveyor.—The county surveyor is elected for a term of three years. It is his duty to survey lands and to mark their boundaries when called upon by the owners or directed by law to do so. All land sold for the non-payment of taxes must be surveyed by him. He must also run the lines and perform other duties in connection with the construction of roads and ditches, and the erection of public bridges. He is required to keep a record, open to the public, of all surveys made by himself or his deputies. He receives fees and other compensation for his services as fixed by law.

74. The Infirmary Directors.—In most counties there is an infirmary or home, built at public expense, for the helpless and dependent poor of the county. In such counties a board of three infirmary directors is elected, one member being chosen each year, for a term of three years.¹ This board has the general management of the infirmary, and makes all contracts for its maintenance as well as the rules and regulations for the guidance and conduct of its inmates. A superintendent is appointed who has the immediate charge and direction of the infirmary, and performs such other services as the directors may require. The directors must make a semi-annual report to the county commissioners as to the condition of the infirmary, the number of inmates, and the receipts and expenditures of money, and an annual estimate of the needs of the institution for the next year.

75. The Coroner.—The coroner is elected for a term of two years. Whenever the body of any person is found within the county who is supposed to have died through violence or from any other than a natural cause, it is the duty of the coroner to hold an "inquest," or examination to determine if possible the cause of the death, and for this purpose he may summon and examine witnesses. If

¹ In some counties the commissioners act as infirmary directors.

he finds that the death was due to any person, he causes him to be arrested, if known, and brought to trial. In case of vacancy in the office of sheriff the coroner fulfils the duties of that office. He has other prescribed duties. His compensation consists of fees for the various services performed.

76. The Courts of the County.—As already stated, two terms of the circuit court and three of the common pleas court are held annually in each county. The cases which come before these courts are such as arise in the county, but since the judges are not elected by counties but by circuits or districts usually containing more than one county,¹ they are not regarded as county officers, though the courts are an important part of the governmental machinery of the county. The probate court is more properly a county court, since its jurisdiction is limited to the county and the judge is elected by the voters of the county. The general powers and duties of these different courts have been described.²

In order that the judicial branch of the county government may be properly carried on there are in each county certain officers, whose duties, either wholly or in part, consist in aiding in the work of the courts.

77. The Sheriff.—The sheriff is elected for a term of two years. No person is eligible to the office for more than four years in any period of six years.³ The office of sheriff is the oldest and most important of the county offices. It dates from an early period in English history, when there was in each county or shire a fiscal officer known as the reeve, whence is derived the name *shire-reeve* or sheriff. The sheriff is the chief officer of the county. His duties are of a threefold character.

(1.) As a peace officer it is his duty to preserve the public peace by arresting all offenders against it and com-

¹ See page 46.

² See pages 46–48.

³ See Art. X. Sect. 3.

mitting them for trial; he has the power to summon to his assistance such persons as he may deem necessary, that is, to call out the *posse comitatus*; when necessary he may call either directly or through the governor upon the militia for assistance in quelling riots, mobs, and other disturbances; where the State forces are not sufficient the governor may ask the assistance of the United States. The sheriff has charge of the county jail and the prisoners therein.

(2.) He must attend upon the courts when they are in session in the county; he has charge of the prisoner on trial, of the jury, and of the witnesses; he carries out the sentence of the court in criminal cases, whether it involve fine, imprisonment, or capital punishment.¹

(3.) It is his duty to serve or deliver all writs and other processes issued by the courts in the county, except those issued by the justices of the peace. This involves among other things arrest of persons, summoning of witnesses, and execution of the judgments of the courts in civil cases.

In addition to these duties the sheriff gives notice by printed proclamation of all general elections, and performs many other duties of an executive nature. His compensation consists of fees for the various services performed, and amounts in the aggregate to a large sum, though varying in different counties.

78. The Clerk of the Courts.—The clerk of the common pleas court, who is also by law the clerk of the circuit court in his county, is elected for a term of three years. It is his duty to receive and file all papers in suits in these courts; to enter all orders, decrees, judgments, and proceedings of these courts in proper books, to issue all processes ordered by the courts, and to make

¹ In case a convicted murderer is sentenced to death the sheriff conveys the prisoner to the State penitentiary, where the sentence is carried out.

a complete record of every case tried in either court. He has many other duties of a clerical nature. He must make an annual report to the secretary of state giving statistics as to persons accused and tried for crimes. His compensation consists of fees for the various services performed.

79. The Prosecuting Attorney.—The prosecuting attorney is elected for a term of three years. Only a lawyer duly licensed to practise in the State is eligible to this office. It is the duty of this officer to prosecute on behalf of the State in any court of the county having jurisdiction, except the justices' courts, all persons who are charged with the commission of crimes or misdemeanors in the county, and also to prosecute such other suits as the law directs. He is the legal adviser of the county officers, and any of them may require his written opinion or instructions in matters connected with their official duties. It is his duty to bring suits in the courts to prevent the misapplication of county funds by any officer or board. He may be removed from office by the common pleas court for neglect of duty or misconduct in office. He is paid a salary varying in different counties, and certain fees in addition.

80. How Cases are tried in the Courts.—In all ordinary cases that come before a court for trial there are two parties: the plaintiff, who makes the complaint and institutes the suit, and the defendant, against whom the complaint is made and the suit begun. There are two kinds of cases which may arise for trial. A criminal case is one which is undertaken for the conviction and punishment of a person accused of doing an act contrary to the law of the State. The State is the plaintiff, since crimes and misdemeanors are regarded as committed against its peace, authority and dignity; the accused person is the defendant. A civil case or action is one begun to enforce the rights or to remedy the wrongs of an individual or

corporation, as against some other individual or corporation.

The usual procedure in a criminal case is as follows :

(a) When an offence has been committed an affidavit is filed with a justice of the peace within the county, naming the person who is believed to have committed the offence, and charging him with it. The magistrate issues a warrant for the arrest of the person named ; when arrested by the proper officer he is taken before the magistrate, who makes an examination of the charges ; if he is satisfied that the offence has been committed and that there is probable cause for believing the accused is the person who committed the offence he requires him to give bond to appear before the proper court for trial. If the accused cannot give bond he is committed to jail until the trial. A record of the complaint and of these proceedings in the magistrate's court is sent to the clerk of the court at which the prisoner is to appear for trial. The proceedings thus far are merely a preliminary examination to determine whether the probability of the guilt of the accused is strong enough to make it advisable or necessary to proceed to a formal trial.¹

(b) The common pleas court is the court in which the trial of criminal cases takes place. Prior to the beginning of each term of this court in a county, by order of the court a grand jury is summoned. This jury consists of fifteen men whose business it is to inquire into all offences committed within the county.² It is not the duty of the

¹ If the justice is not satisfied of the probable guilt of the accused he may discharge him. When the offence charged is a petty one and the complaint is made by the injured person himself, and the accused person pleads guilty when brought before the magistrate, then the justice may impose punishment on him as provided by law without sending the case to the higher court for trial.

² It is of the highest importance that juries should be composed of intelligent and broad-minded men. It is therefore necessary that the

grand jury to pass upon the guilt or innocence of an accused person, but merely to decide whether there is sufficient reason for arresting and bringing him to trial before the proper court. The prosecuting attorney submits to the grand jury the complaints and evidence in such cases as he wishes to have investigated and witnesses may be summoned to testify as to the charges. The names of all persons examined, as above described, by the magistrates and held for trial are furnished to the grand jury. They not merely inquire further into these cases, but also investigate all other offences known to have been committed. If after an examination of the evidence against any person twelve of the grand jury agree that it is sufficient to warrant a trial, the complaint or written indictment against the person is endorsed by the foreman of the jury, "A true bill," and is subscribed by him as foreman.

(c) All such indictments are presented to the proper court, and the persons indicted are brought to trial. The

method of selecting them be such as will ensure this. The General Assembly in 1894 enacted that all jurors should be selected as follows: In each county four electors are annually appointed by the judges of the common pleas court to serve as jury commissioners for the ensuing year. It is the duty of these commissioners to meet on the fourth Monday of May and select from the electors of the county such number of judicious and discreet persons as the court may direct, to serve as jurors in the court during the ensuing twelve months. The selection must be made from the various townships and wards as nearly as may be in proportion to their population. The names of these selected persons are written on separate pieces of paper and placed in the jury wheel, which can be revolved so as thoroughly to mix the papers. The wheel is then securely locked and kept in the custody of the clerk of the court. In advance of each term of the court the clerk in the presence of the sheriff draws from the wheel as many names as the court may direct to serve as jurors, either grand or petit. At any time during the term of the court when additional jurors are required it is the duty of the clerk to draw in the same way as many names as the court directs.

indictment serves as the basis of the trial and the prosecuting attorney conducts the case on behalf of the State. A petit or trial jury of twelve men is selected and sworn to decide the case according to the evidence. In selecting the jury from among those whose names have been drawn from the wheel as already described, the attorneys on each side may peremptorily challenge and reject two without assigning any reasons. In cases where the penalty on conviction is death the defendant is allowed sixteen peremptory challenges. Each side may challenge for cause any number of jurors and the court decides whether the cause given is sufficient to reject them under the law. After the jury is selected and sworn the prosecuting attorney presents the charges before the jury and submits the evidence to support the charges. The attorney for the defendant then states his case and submits the evidence in defence of the prisoner. After the evidence is submitted the attorneys again address the jury and seek to interpret the evidence for the jury. The judge then "charges the jury," explaining the law applicable to the testimony and the whole case. The jury then retires to consult upon a verdict, which must be the unanimous opinion of the jury. It is either "Guilty" or "Not guilty." When the defendant is found guilty the judge pronounces the penalty directed by law. If the verdict is "Not guilty" the accused goes free. If the jury disagree the defendant is tried again before another jury.

(d) If the accused has been found guilty, a new trial is sometimes granted by the judge for satisfactory reasons. The case may also be taken before the circuit court or the supreme court on a writ of error.¹

In a civil case there is no preliminary examination or indictment by the grand jury. The plaintiff files a petition with the clerk of the court having jurisdiction stating

¹ See pages 45, 46.

the cause of the suit, the person from whom he seeks redress, and the redress or relief sought; a summons is issued by the clerk directing the proper officer to notify the party complained of to appear and answer the petition. When the case comes to trial, if a jury is to decide it, the selection is made in the same way as in criminal cases except that no peremptory challenges are allowed. The presentation of the case, evidence, and arguments is made as in criminal cases, and the decision is "For the plaintiff" or "For the defendant." In case the verdict or decision involves the payment of money by either party and the party against whom it is rendered fails to pay, his property may be seized by order of the court and sold by the sheriff in order to pay the judgment. Certain kinds of civil cases may be re-tried in the circuit court, and all may be carried to that court and the supreme court on petition in error for re-examination of the law points involved.

THE TOWNSHIP.

81. Origin of the Township.—In the Saxon period of English history the *tun*, or town, was the name of a small community or group of people having considerable freedom in the management of its own political affairs; the towns were united in the shire or county, and the shires were consolidated later into the kingdom of England. Thus the local group preceded the State. With us in the newer States at least, the State is the first thing and is subdivided into counties and townships. In Ohio the township is of less importance than the county, while in New England the opposite is true.

82. The Township in Ohio.—The counties of Ohio have been subdivided into townships, each of which is a corporate body with the right to sue and be sued, and has an organized government. This government is supplementary and subordinate to that of the county. The

county commissioners have the power to erect new townships and change the boundaries of existing townships on the petition of a majority of the householders in the territory affected by the change; but no township may contain less than twenty-two square miles unless it includes a city or village corporation. There are about 1400 townships in the State.¹ The laws of the State tell what things may be done by townships and leave it to the people or the trustees of each township to decide whether or not they shall be done in that township. Among the chief powers of the township are the right to receive, hold, and dispose of real and personal property for the public benefit; to make contracts and orders for the carrying on of its business; to borrow money for township uses, and to levy taxes for township purposes.

83. The Township Officers.—The administrative officers of the township are three trustees, a clerk, a treasurer, as many assessors as there are election precincts in the township, a supervisor of roads for each road district in the township, and as many constables as may be determined on by the trustees. These officers are elected at

¹ The townships described above are the civil townships organized for governmental purposes. There are also the "original surveyed or congressional" townships, six miles square (*see page 15 and note*), which were laid off by the surveyors under authority of Congress. The boundaries of these often do not coincide with those of the civil townships. In each of these original surveyed townships a square mile of land was given by the United States for the support of schools in the township, and in some a second square mile was given for the support of religion. Since only the income from these lands can be spent for the purposes named it is necessary that there should be officers in each of these original townships to look after these lands or the fund resulting from their sale. Each such township accordingly has three trustees and a treasurer, chosen by the voters, who have charge of this land or fund, and have no other official powers or duties. Whenever a township is referred to in Ohio the civil township is meant, not the original surveyed township, unless the latter is specially named.

the annual meeting of the township on the first Monday in April. The trustees hold office for three years, one being elected each year; the constables, three years; the clerk and the treasurer are chosen in alternate years and serve for two years each; the assessors and supervisors of roads, one year. The judicial officers elected by the township are the justices of the peace. The number of justices is fixed for new townships by the court of common pleas, but may be increased or diminished thereafter by the probate judge on proper notice. The term of office of the justices is three years.¹ As compensation for their services the trustees, assessors, and supervisors of roads receive a fixed sum for each day when they are engaged in township work; the clerk, the justices, and the constables receive fees for their various acts; the treasurer is allowed as a salary two per cent. of all moneys paid out by him on orders of the trustees.

84. The Trustees.—The trustees are the general administrative officers of the township; their powers and duties in township affairs correspond to those of the commissioners in county matters. They have the care and control of the public property of the township. It is their duty to determine the amount of money necessary for township purposes; to levy the annual taxes for such purposes within the limits set by law; and to certify to the county auditor the amount and rate so levied, in order that the tax duplicate may be prepared for the county treasurer; to divide the township into road districts; to order new roads opened; to provide and care for township cemeteries; to erect a town-hall if so ordered by the electors of the township; to establish a public library, if so voted, in townships having a village with a population of not more than one thousand; to build bridges and construct ditches; to furnish relief to paupers; and to make

¹ See *Art. IV. Sect. 9.*

regulations as a township board of health. They settle the accounts of the treasurer and the supervisors of roads, and all claims against the township.

85. The Clerk.—The duties of the clerk are to keep an accurate record of all proceedings of the trustees at their meetings; to keep the records, books, and papers of the township; to countersign all orders upon the treasurer for the payment of township funds. All chattel mortgages given in the township must be filed with the clerk. He is required to enter annually in the township record a detailed statement of all receipts, expenditures and liabilities of the township, and to post a copy of the same at the annual meeting in April.

86. The Treasurer.—The treasurer is the custodian of the moneys belonging to the township. These moneys so far as they are derived from taxation are collected by the county treasurer, and paid over to the township treasurer. No money can be paid out by the township treasurer except on the order of the trustees countersigned by the clerk. The books, accounts, and moneys of the treasurer are subject at any time to the inspection of the trustees, who are required to make at least one examination each year.

87. The Assessor.—The duties of the assessor are of the highest importance. He makes annually a list and valuation of all personal property¹ in the township, or in the election precinct, if there is more than one precinct and assessor in the township. This list is forwarded to the county auditor, and when corrected by a county board appointed for that purpose serves as the basis for determining the amount of each person's taxes for that year. The assessor is also required to collect annually certain

¹ The real estate is appraised but once in ten years, and the appraised value remains unchanged during the decade except where buildings have been erected or destroyed during that time.

business statistics. It is important that the assessors should be men of integrity and sound business judgment, in order that they may attach a fair and honest value to the property.

88. The Supervisor of Roads.—After the township has been divided into road districts by the trustees, a supervisor of roads is chosen by the electors of each district. It is his duty to open and keep in repair all public roads in his district, to remove obstructions and to prevent encroachments. The money necessary for the care of the roads is raised by taxation. Every male person between the age of twenty-one and fifty-five, not exempted by law, is liable for the performance of two days' work annually on the roads, under the direction of the supervisor of the district in which he resides.

89. The Justice of the Peace.—The office of the justice of the peace is derived from England, and is one of the oldest as well as most important. Each justice of the peace presides in a court known as the justice's or magistrate's court. The justices have jurisdiction for the trial of persons charged with minor misdemeanors, and under provision of the law may impose fines or imprisonment for short terms on those convicted. They also act as examining magistrates to determine whether persons accused of more serious offences shall be held for trial in the common pleas court. The justices may also try civil cases. They have exclusive original jurisdiction where the amount in dispute is not over one hundred dollars, and joint original jurisdiction with the common pleas court where the amount is between one hundred and three hundred dollars. The law does not, however, allow the justices to try cases involving the title to land, nor certain others specified, even though the value in controversy is less than three hundred dollars. The jurisdiction or authority of the justice is limited in most civil cases to the township in which he resides, but in a few civil matters and in all

criminal cases it extends over the entire county. Justices of the peace are also authorized to perform marriage ceremonies and to do several other acts of a legal nature.

90. The Constables.—The constables are the peace officers of the township. Their duties in many respects are similar in township affairs to those of the sheriff in county matters. They serve all writs, warrants and other orders issued by the justices of the peace, and such as are directed to them by the common pleas court. It is their duty to arrest all violators of law, and they may summon to their assistance for this purpose any citizens of the township, and if necessary they may call on the sheriff for aid. It is also their duty to serve or deliver all orders of the township trustees.

CHAPTER V.

MUNICIPAL GOVERNMENT.

91. Municipal Corporations.—So long as the population is thinly scattered over a State, the county and the township are the only necessary political subdivisions. They exist mainly to assist in administering State laws in different parts of the State. Special local needs are slight. As the State develops, as railroads are built and manufactories are started, people of necessity live and work closer together; hamlets spring up, which in time may become villages, and later may grow to be large cities. In every such community, embracing any large number of people within a small area, many problems arise that concern the community alone. Danger from fire, disease, and disorder must be provided against. Water-works, sewers, gas, electric light, sidewalks, pavements, parks, street railways, and many other things are needed for the comfortable existence of the people. As the needs of these settlements differ, depending much on their location and size, it would be difficult for the legislature to ascertain and provide for them all separately. They can be properly met only by those who reside in the place where they exist. Hence it has been found advisable to create special local governments to care for these matters. Such governments are known as municipal corporations. They take charge of local matters and assist slightly in the administration of State affairs. Since their needs are greater, they are given larger powers than are given to counties or townships.

92. Municipal Corporations in Ohio.—In Ohio municipal corporations are formed under general State laws applicable to all alike, and describing their form and powers. According to the Constitution, the General Assembly may not pass special laws for individual corporations.¹ Every municipal corporation in the State is either a village or a city. Those which at the last federal census (1900) had a population of five thousand or more are cities; all others are villages. Any city which at any future federal census has a population of less than five thousand will become a village, and any village which at any future census has more than five thousand inhabitants will become a city. Under the law all villages have the same form of government and each city has the same form as every other city. Thus there are but two forms or types of municipal government in the State, and when one knows the population of any municipality, he knows at once whether it is a city or a village, and may easily know what its form of government is.²

¹ See *Article XIII. Sect. 6.*

² Previous to 1903 there were great variation and confusion in municipal government in Ohio. As it had seemed difficult to devise a form of government that would serve equally well for communities of different sizes, the legislature had made three kinds of municipal corporations—cities, villages, and hamlets—and had subdivided cities into several classes and grades, and villages into two classes. Thus there had come to be fourteen varieties of municipal corporations, and in some of the subdivisions there was but a single city. For each of these fourteen varieties there was a different form of government, and at nearly every session of the legislature laws were passed making new varieties or changing some of the existing classes. With these continual changes, often made for no good reason, it was difficult to have the city and village business well managed, and, besides, a great many people believed that such laws for single cities were not valid, since the Constitution required that general laws should be passed for municipal corporations. In June, 1902, the supreme court, as it had the right to do (see page 6, paragraph 4, and page 44, paragraph 59) when a suit came before it touching this subject, decided that laws making such classification of

THE VILLAGE.

93. Creation and Incorporation of the Village.—The village is the simplest municipal corporation. There are two ways in which any little community desiring greater power to manage its own public affairs than is possible under township government may become a village. One way is through a petition to the county commissioners from not less than thirty voters residing within the proposed village. After a hearing has been given to any residents who may oppose it, the commissioners have power to grant or refuse the petition. If they grant it, the village is thereby incorporated and its government is organized under the law. The other method is through a similar petition to the township trustees that an election be held by the voters of the proposed village to determine whether they desire to be incorporated. If a majority so vote, the village is thereupon incorporated under the law without application to the county commissioners. The township officers thereupon cease to govern the community in the village. After a village is once incorporated, it continues as such until, by increase of population, it becomes a city, or until a majority of the voters of the village vote to surrender the corporate powers, in which case it ceases to be a village and the township government again assumes control.

94. The Government of the Village.—The village government is in some ways a miniature copy of the State government, having a legislative, an executive, and a judi-

cities and villages as then existed were contrary to the Constitution and were not valid. As the government of most of the cities and villages depended on just such laws, it became necessary for the General Assembly to frame a law for municipal corporations that would be valid. On October 22, 1902, they enacted a general law for all municipal corporations which has taken the place of previous laws in this State on that subject. It provides the forms described in the text, and went into full effect in the spring of 1903.

cial branch. The legislative authority is vested in a council elected by the voters, and consisting of six members, three of whom are elected each year for a term of two years. The executive or administrative officers are a mayor, a clerk, a treasurer, a marshal, a street commissioner, and, if so ordered by the council, a solicitor; in villages where there are water-works or lighting plants owned or operated by the village government there is also a board of trustees of public affairs. All these officers except the street commissioner and the solicitor are elected for terms of two years. The street commissioner is appointed by the mayor for one year, and the solicitor by the council for a term not exceeding two years. The compensation of all of them is determined by the council. In judicial and police matters the village is subject to the jurisdiction of all courts of the county, and in addition has a special court known as the mayor's court.

95. The Council.—The council has general charge of the finances and property of the village. It has power to pass ordinances and resolutions on the subjects within its control and to provide the necessary means for their enforcement. The leading subjects on which the council may legislate are public order; police and fire protection; the opening, maintenance, repair, lighting, cleaning, and use of the streets; water-supply; lighting, power, and heating plants; public health; hospitals, infirmaries, public baths, markets, parks, public libraries; the licensing and regulation of many kinds of business; the granting of franchises or privileges to street railway, telephone, gas, and similar companies, permitting them to use and occupy the streets for the purpose of carrying on their business. The council has the power to borrow money and to levy taxes for village purposes within the limits established by law.¹ Neither the village council nor any of its officers has

¹ See *Art. XII. Sect. 6.*

the right to do any act for which authority is not given in the general State law. The mayor is president of the council, with no vote except in case of a tie. The members of the council receive no compensation for their services.

96. The Mayor.—The mayor is the principal executive officer of the village and the chief conservator of the peace. It is his duty to see that all ordinances of the council are obeyed and enforced; to supervise the conduct of the other officers; to preside in council meetings; and, subject to confirmation by the council, to appoint all village officers, except the solicitor, who are not elected by the voters. As conservator of the peace he has within the village limits all the powers of the sheriff to suppress disorder and maintain the peace. In addition to certain fees provided by law, he receives such salary as may have been fixed in advance by the council. He has also certain judicial powers and duties.¹

97. Police and Fire Department.—The marshal is the chief peace officer of the village, and the head of such police force as may be established by the council. It is his duty to arrest all offenders against State laws or village ordinances, to suppress riots and other disturbances, to attend on the mayor's court, and to serve all writs issued by the mayor. His duties and powers within the village are thus similar to those of the sheriff and constable. The council may also provide for the organization and maintenance of a fire department, to be under the direction of a fire chief appointed by the mayor.

98. Board of Trustees of Public Affairs.—In all villages in which water-works, electric light, or artificial or natural gas-plants are owned or operated by the village, a board of three trustees is elected to have charge of the same. This board supervises the construction and operation of the works, fixes the rates, and collects the same from the consumers.

¹ See paragraph 100.

99. Other Officers.—The duties of the clerk, the treasurer, and the street commissioner are similar to those of the corresponding officer of the county or township, with only such changes as are necessary to adjust them to the village business.

100. The Mayor's Court.—In each village the mayor holds a court known as the mayor's court (or sometimes as the police court), in which he has the same power as a justice of the peace in civil cases, and the jurisdiction of an examining magistrate in criminal cases under State laws. He has power to try and to punish persons for petty misdemeanors and for offences against village ordinances.

THE CITY.

101. Difference Between Village and City.—The village has the power to do nearly all the things which the city may do, but many of these things the people of the small village do not need nor desire to have done; but as village communities increase in population they develop more and more needs, and some of these the machinery of village government is not adequate to supply. The chief difference between city government and village government is in the number and variety of officers whose duty it is to look after the business of the municipality, and in the methods and machinery by which that business is done. When it has attained a population of five thousand by the federal census, each village becomes a city, and its form of government is then changed to that prescribed for all cities.

102. Wards.—Every city is divided into wards, the boundaries of which are fixed by the council once in ten years. The number of wards is determined, according to a rule fixed by the State law, by the number of inhabitants which the city has. In cities where there are fewer than 25,000 people there are four wards; where there are 25,000,

there are six wards ; and the number increases by regular steps in proportion as the population is larger.¹

103. The Government of the City.—The government of the city, like that of the village, is in three departments, but the division is more distinct and complete. The legislative power is vested in a council consisting of not less than seven members, elected for two years. One member is elected from each ward, and at least one-fifth as many (and never less than three) are elected by the voters of the entire city on a general ticket. Thus the larger the city is, the more members there are of the council.² The executive power is vested in a mayor, president of the council, auditor, treasurer, solicitor, department of public service, all of whom are chosen by the voters for terms of two years, except the auditor, who is chosen for three years ; a board of public safety, appointed by the mayor subject to the approval of the council ; and minor officers and departments filled by appointment. There is also an assessor chosen annually for each ward. In most of the larger cities the judicial department consists of a police court, having a judge, a clerk, and a prosecutor. In all other cities the mayor's court is found as in the villages.

104. The Council.—The council has legislative power only ; that is, it passes rules and ordinances regulating the business of the city and the conduct of its inhabitants, but the enforcement of these ordinances and the actual doing of the things authorized by the council devolve on the executive department. The general powers of the council are the same as in the village, but are more fully exercised and the ordinances are far more numerous.³

¹ For example, Cleveland (population 381,768) has 26 wards and 32 members of the council ; Columbus (population 125,560), 12 wards and 15 councilmen ; Dayton (population 85,333), 10 wards and 13 councilmen ; Canton (population 30,667), 6 wards and 9 councilmen ; Hamilton (population 23,914) and Urbana (population 6,808), each 4 wards and 7 councilmen.

² See note 1.

³ See paragraph 95.

The council elects a clerk, who keeps the records of its meetings, has charge of its papers, and performs other duties fixed by law. The council determines within the limits set by State law the number of members of the board of public service and board of public safety ; it also fixes the salary of all elective officers, and, except as to subordinates in the department of public service and the health department and in the public library, fixes the number and salaries of all appointive officers, clerks, and employés under the city government. The council may by a two-thirds vote remove for proper cause any officer or head of department except the mayor. Every ordinance or resolution of the council must be submitted to the mayor for his approval before it can become effective. If within ten days he refuses his approval, the measure may be again voted on by the council, and if on this second vote it receives the affirmative vote of two-thirds of all the members, it becomes effective. The members of the council may receive an annual compensation, if so voted, varying, according to the size of the city, from \$150 to \$1200.

105. The Mayor.—The powers of the mayor, while similar to those of the village mayor, are considerably greater. He does not act as president of the council, but has a veto on its acts, and in cities where there is a police court there is no mayor's court. He is the principal executive officer and chief conservator of peace, and has control over the police and fire departments. Subject to a merit system for determining the competency of candidates, he appoints all members of the police and fire departments. He also appoints many other of the city officials and is president of the city board of health. He may be removed from office for certain causes by the governor of the State.

106. The President of the Council.—This officer presides at all meetings of the council, but has no vote except in case of a tie. On the death, removal, inability, or

absence of the mayor the president of council becomes the acting mayor.

107. The Auditor and the Treasurer.—The duties of these officers in city business are similar to those which the county auditor and the county treasurer perform for the county, except that neither of the city officers has any direct connection with the collection of taxes. The city auditor keeps the accounts and the treasurer handles the money belonging to the city, paying it out only on orders from the proper persons drawn or countersigned by the auditor.

108. The Solicitor.—The solicitor is the legal adviser of the city. He is required to furnish legal opinions on all matters submitted to him by the council or by any of the officers or boards. He prosecutes or defends for the city all cases and suits at law to which the city is a party. He or his assistant also acts as prosecutor in the police court.

109. The Department of Public Service.—The most important department of the city government is the department of public service, administered by three or five directors, known as the "board of public service." This board has the management and supervision of all public works and public institutions of the city, including water-works, lighting plants, parks, public buildings, workhouses, public hospitals, and market houses, the construction and maintenance of sewers, the improvement, repair, cleaning, and lighting of the streets. The board has the power to fix the number and salaries of employés in the department and to appoint and discharge them at pleasure. Almost the only limitation on their power is the fact that the council decides what improvements shall be undertaken, and that the board can expend only so much money as the council appropriates for the department. The board of public service is largely independent of the other city officers in the management of its business, and has greater

power within its department than any other part of the executive branch.

110. The Department of Public Safety.—The department of public safety is administered by a board of two or four directors appointed by the mayor for terms of four years each. This board, together with the mayor, has the control of the police and fire departments. The powers are divided between the board and the mayor as follows: the board fixes the rules under which appointments of policemen and firemen are made;¹ it has control of all clerks and employes in the department other than policemen and firemen; it makes rules for the management of the department, and lets the contracts for all buildings and supplies for the department. The mayor appoints all policemen and firemen from the list of those who have passed the examination, and has the direction of the two departments subject to the rules laid down by the board as to discipline.

111. The Police Court.—In many cities of the State a police court has been created to take the place of the mayor's court, thus relieving him of all judicial duties. This court is presided over by a police judge and has the same powers as justice's and mayor's courts in all criminal matters, but no power to try civil cases of any sort. The clerk of the police court and the police prosecutor have the same duties respectively in the police court as the clerk and the prosecuting attorney have in the court of

¹ The State law requires that all appointments to the police and fire departments shall be based upon merit as determined by a physical and mental examination of the candidates. The directors of public safety make the rules and conduct the examinations. This is intended to secure the appointment of competent persons. The system should be extended to all appointive officers of the city, for good city government depends largely on the selection of officers who are qualified for their positions. No such test is now required in any other department of the city government.

common pleas. In cities where there is no police court the mayor's court exists as in villages.

112. Municipal Home Rule.—Ohio cities and villages now have far greater freedom and power in the management of their own business than ever before. They determine what public improvements shall be undertaken; they fix the salary of all officials and the number of subordinates; they have large power of taxation and borrowing for municipal purposes, and authority to do and decide nearly all things for the local public welfare and comfort. Good municipal government is based on the idea that each city knows best what it needs. Therefore a law which within reasonable limits recognizes this is the foundation of proper city management. The present law is not perfect, but it looks in the right direction, and can be modified as experience demands, always keeping in view that each community ought to have the largest practicable liberty to decide its own wants and manage its own local business.

CHAPTER VI.

PUBLIC EDUCATION.

113. The Foundation of the Schools.—The special importance of schools in a free State was recognized from the earliest days of Ohio. The Ordinance of 1787 says: "Religion, morality, and knowledge being necessary to good government, schools and the means of education shall forever be encouraged." Two years before that ordinance was passed Congress had provided that one section in each township in this Territory should be reserved from sale for the support of schools in the States formed in this region. When the State of Ohio was admitted to the Union the lands were given to the State to be used for the benefit of the schools. The Constitution of the State requires that the grant be cared for and applied to the purpose named, and that the General Assembly provide by taxation or otherwise a thorough and efficient system of common schools throughout the State.¹

114. The School System.—The General Assembly has provided by law the framework of a free public-school system, and has divided the State into small districts, within each of which the people, through local officers, establish and conduct the schools. The law requires each district to provide school facilities, and to maintain free schools for at least twenty-four weeks in each year, and prescribes how the schools shall be managed and taught. Each district is left free to provide better facilities and for a longer period if it desires. As in the other departments

¹ See *Art. VI.*

of government work, the State makes it the duty of each community to do certain things, and then leaves to the community the selection of officers to do them. The work of public education is so important and distinct from other government duties, that a special set of officers is chosen in each community to look after it.

115. The School District.—The divisions of the State for school purposes are called school districts. Each city and each village constitutes a school district, known as a city or village district, and each organized township, exclusive of the territory included in a city, village, or special district, constitutes a township district.¹ The township districts constitute nearly two-thirds of the whole number.

116. The Board of Education.—The school affairs of each district are under the charge of a board of education elected by the voters of the district. Under a law passed in 1894 women have the right to vote and to be voted for in elections for members of these boards. Each township is divided into sub-districts, in each of which at least one school must be maintained, and the township board of education, having charge of all schools in the district, consists of the township clerk, and of one member or director elected from each sub-district for a term of three years. In village districts the board consists of three or six members, one-third elected each year for a term of three years. In city districts the composition of the board is varied, but it usually has either one or two members from each ward, elected for two or three years.

The duties of the board are to establish and maintain

¹ City districts are arranged in four groups: The first grade of the first class; the second grade of the first class; the first class; the second class. For school purposes, territory adjoining a city or village is often included in the city or village school district, and territory, in the city is sometimes excluded from the district. Population is the basis of the classification. There are also special districts.

schools as required by State law ; to erect and repair school buildings ; to employ teachers ; to determine the number of weeks, not less than twenty-four, the schools shall be taught ; to determine the course of study, which must include all studies required by law, and the text-books. The board also decides, within limits fixed by law, how much money shall be raised by local taxes for the support of schools, in addition to the district's share of State school funds. The board may borrow money for school purposes, but in most districts must first submit the matter to a vote of the electors, and must act in accordance with the decision. The board makes necessary rules for the government of the schools, of the teachers, and of the pupils. An annual list is made in each district of all the unmarried youth between the age of six and twenty-one.

117. The School Funds.—The funds necessary to maintain the common schools are derived from several sources : (1) The school lands given to the State have been sold, and the proceeds form the common school fund, the annual interest on which is distributed among the townships and districts to which the lands belonged. (2) There is levied each year a State tax of one mill on each dollar of taxable property in the State. This is known as the State common school fund, which is distributed to each district and sub-district in proportion to the number of persons of school age in each. (3) Fines for a large number of offences are by law paid to the school fund and are distributed with the other funds. (4) In addition to these funds, each district may levy a local tax not in excess of a rate fixed by State law.

118. The Examination of Teachers.—It is essential that the teachers be qualified for their work. In order to assist in securing this, boards of education are forbidden to employ any person as teacher who has not passed an examination in certain specified subjects. In each county the probate judge appoints for terms of three

years a board of three examiners whose duty it is to examine applicants, and, if they are successful, to give them certificates valid for from one to eight years and entitling the holder to be employed as a teacher in the county where they were issued. In city and village districts special boards of examiners may be constituted with authority to grant similar certificates valid for from one to five years in the district where issued. There is also a State board of examiners, consisting of five persons appointed for terms of five years by the State commissioner of common schools,¹ having authority to grant, on examination, life certificates valid anywhere in the State.

119. Compulsory Education.—The State requires that every child between the age of eight and fourteen years shall attend public or private school, in the city districts twenty weeks, and in other districts sixteen weeks each year, one-half of which time in each case shall be consecutive. Children between eight and sixteen years of age, not engaged in some regular employment, must attend during the full term of school each year. For failure to comply with this law severe penalties are imposed on parents and employers, and in certain cases on the children.

120. Ohio State University.—In 1862 Congress gave to Ohio, as to every other State, a large amount of land for the support of a State institution for advanced education, and especially for instruction in agriculture and mechanic arts. Ohio State University at Columbus was established as the result of this gift. The University is supported by the income derived from the proceeds of the lands, by an annual grant by Congress, and by a permanent annual tax on the taxable property in the State. It is managed by a board of seven trustees appointed by the governor, one each year for a term of

¹ For the power and duties of the State commissioner of common schools, see page 40.

seven years. The University is thus a part of the public educational system of the State, continuing education beyond the high school just as the high school supplements the work of the lower grades.

121. Ohio and Miami Universities.—Ohio University at Athens and Miami University at Oxford, founded in the early years of the nineteenth century, received the benefit of certain lands given by Congress to the State for seminaries of learning. Prior to 1880, beyond the fact that their trustees were appointed by the governor, they received from the State little special recognition different from private colleges and very slight financial support. Since that time the General Assembly has dealt more liberally with them and has granted to each of them the proceeds of a small permanent annual tax upon the taxable property in the State. Under a recent law a State normal school has been established in connection with each of them.

122. Private Schools and Colleges.—In addition to the public schools and the three universities sustained at public expense for the benefit of the entire people of the State, there are a large number of private schools and about thirty colleges in Ohio founded and maintained, not from public funds, but by gifts from private persons or by various religious societies. While they are not a part of the public educational system and are not subjected to State control or supervision, they form a valuable part of the educational opportunities existing in the State.

CHAPTER VII.

ELECTIONS.

123. The Election of Officers.—It is a common saying that a good workman with poor tools can often do better work than a careless workman with good tools. This is as true in the work of government as elsewhere. While it is well that the government of a State be carefully planned and constructed, it is of greater importance that competent and patriotic men be put in charge of the government—men who will faithfully perform the duties of the offices in which they have been placed, and will seek to do what is for the public good, rather than for their own advantage. It sometimes happens in Ohio as elsewhere that men get into office who have not the ability or knowledge properly to perform the duties required; sometimes also those are chosen who use the office for their own personal profit rather than for the public welfare. The voters are at fault if this occurs, for they select the chief officers. Since in our form of government the only way in which the electors really take part in government is in choosing the officers, it is of the very highest importance that the best possible methods be devised and used in conducting elections, that every voter understands them, and that to the fullest extent he exercises his rights and performs his duty as an elector. No part of the governmental work is more important than that which rests on each voter in the selection of officers.

124. The Elector.—Every male citizen of the United States, of the age of twenty-one years, who has resided in

the State for a year, in the county for thirty days, and in the township, village, or ward where he seeks to vote, for twenty days, is an elector.¹ No idiot or insane person, and no one who has been convicted of serious crime, unless pardoned by the governor, is permitted to vote. Women twenty-one years of age who are citizens of the United States have the right under the same conditions as to residence, to vote and to be voted for at any election for school directors or boards of education.

125. Election Days.—In Ohio all regular elections for presidential electors, members of Congress, State and county officers, and circuit and common pleas judges, are held on the first Tuesday after the first Monday in November. All regular elections for township and municipal officers are held on the first Monday of April, except that a few village elections occur on the Saturday preceding the first Monday in April. The election of members of boards of education occurs in township sub-districts, and in special districts, on the second Monday in April; in other districts, on the first Monday in April.

126. Political Parties.—In this country political parties have existed since the beginning of the government. From the first, men differed as to the meaning of the Constitution, as to the powers of the government, and as to the policy and measures that ought to be undertaken; and men have differed on these points ever since. Those who held similar views naturally banded together and sought to select men for office who would carry out those views. Thus political parties came into existence. While the separation into parties came from differences over national questions, parties also divide in State elections, on account of the close connection between national and State interests.

Political parties perform two kinds of useful service to

¹ See *Art. V. Sect. 1 and footnote.*

the State: (1) Their existence causes more careful government, since each party when in power is constantly watched and its measures criticised by the others. (2) Through party organization the nomination and election of public officers is greatly facilitated.

127. Organization of Parties.—Each political party maintains a careful and systematic organization, in order that its interests may be looked after, candidates nominated, and voters persuaded and informed. Each of the leading parties has a committee in each State, county, and city, and often in each township, to which is entrusted the conduct of the campaign preceding each general election; the object of the party in the campaign being by means of public meetings and printed information to induce voters to favor its candidates on election day. These committees are usually chosen by conventions or by conferences of the members of the party residing in the territory for which the committee is to serve.

128. Party Candidates for Office.—Every voter has the right on election day to vote for any eligible person for any office to be filled at that election. It is, however, usual in advance of a State, county, or local election, for the members of each party to agree upon the persons who shall be voted for on election day by those whose ideas the party represents. By thus massing the vote of the members of the party on a single candidate for each office there is greater probability of success for the party's ideas than where each voter selects his own candidate from among the entire party. An evil resulting from this custom is that many men are led to vote for unworthy men since they dislike to vote against the person who has been agreed upon, even though, as sometimes happens, he is not a fit person for the office. This difficulty will be obviated if all members of the party take part in the proceedings where the candidates are agreed on, and insist on the selection of fit men. Where unfit men are nominated

by his party, no voter should hesitate to vote against them; and the party leaders would thus be made to see the advisability of naming good candidates if success is to be expected.

129. Steps in Election.—There are two distinct parts in the process of filling an office by election—the nomination and the election. The nomination is the selection by a political party, or other group of voters, of a person to stand as the candidate or nominee of that party, or group, for the office named. This selection must be made and announced a certain length of time before the election day, and is made in such manner as the party or group decides, though the law of the State provides one way in which it may be done. The election is the decision made by the whole body of voters as to which of the candidates previously nominated for each office by the different parties and groups shall occupy the office. This decision is made on election day under the direction of public officers and by a method prescribed by statute.

130. The Nomination of Candidates.—There are two methods by which candidates for office are selected by a political party: the primary election, usually called the “primary,” and the nominating convention. The primary is a meeting of the members of a political party in a voting district or precinct for the purpose of selecting by direct vote candidates for offices, or of choosing delegates to represent the voters of such precinct in a political convention for some party purpose. The primary is held at a date fixed by the party committee, and the law prescribes the way in which it shall be conducted. This is the usual method of selecting candidates for offices in small districts. The nominating convention is made up of delegates chosen by the members of a party to represent them in a meeting called for the purpose of nominating candidates. The place and date for the convention are fixed by the party committee. This is the usual

method by which candidates are selected for offices of districts larger than a township.

Candidates for township and ward offices are chosen in primaries. Candidates for county officers are usually selected by a convention of delegates chosen in primaries in the townships and city wards in the county; the number of delegates from each township and ward depends on the number of votes cast there by the party at the last general election. Candidates for State offices are named by a State convention of delegates chosen by county conventions on some agreed basis of representation. In the judicial districts and circuits, in the congressional districts, and in the senatorial districts comprising more than one county, similar nominating conventions are held, made up of delegates from the counties in the district. Thus it is seen that the nominating convention is used wherever the district interested in the nomination is too large for the members of the party easily to meet or to name directly the candidates.

A third method of nominating candidates is by nomination papers signed by qualified voters of the district or division for which the candidates are to stand. This method is for nominations not made by political parties; such nominations are called independent nominations. Nomination papers of candidates for State offices or offices of any district larger than a county must be signed by electors equal in number to at least one per cent. of the vote cast at the last preceding general election in the State or other district; papers for county officers must be signed by three hundred electors,¹ for city offices by fifty electors, and for township, village, or school-district offices by twenty-five electors.

131. The Supervisors of Elections.—A State super-

¹ In Hamilton and Cuyahoga counties the number must equal two per cent. of the vote cast at the last general election preceding the nomination.

visor of elections, and deputy supervisors for each county, have control of all elections in the State except for school directors and road supervisors. The secretary of state is by virtue of his office the State supervisor; he appoints biennially four deputies in each county, two from each of the political parties casting the highest number of votes at the last preceding November election. It is the duty of the deputy supervisors to appoint annually judges and clerks of election for each voting precinct, to prepare and have printed the ballots to be used in all elections in the county, to provide the necessary books and papers for recording the proceedings and results of elections, to receive the ballots from the printer and deliver them to the officers of the precincts, to provide the necessary voting shelves or booths, to receive the returns of elections, and to issue certificates of election to successful candidates for county offices.¹ The State supervisor is paid a salary, and the deputies receive a fixed sum for each day's service not exceeding twenty days in a year.

132. The Ballot.—The names of all candidates nominated by any political party for presidential electors, or for State offices, certified by the officers of the convention or meeting, and the names of all candidates nominated for the same offices by nomination papers and certified by one of the signers, are sent to the State supervisor of elections a certain number of days before the election. The supervisor sends certified copies of all such nominations to the deputy supervisors in each county.

The names of all candidates nominated for office in congressional, judicial, senatorial, or representative districts comprising more than one county, certified in the same way, are filed with the chief deputy supervisor of the most populous county in the district, by whom certified

¹ In counties containing cities of the first class a city board of elections exist, which acts as the board of deputy supervisors for the county.

copies are sent to the deputy supervisors of each other county in the district.

The names of all candidates for county offices, including representatives in the General Assembly, and of township and municipal offices, are filed with the deputy supervisors of the county.¹

Thus the names of all candidates for all offices—State, district, county, and local—which are to be filled at the election and for which the electors of the county may vote, are sent directly or indirectly to the deputy supervisors of elections. It is the duty of these officers in each county to prepare an official ticket, on which all these names are grouped as required by law, and to have the necessary ballots printed and delivered to the election officers of each voting district in the county. Only these official ballots are allowed to be used or voted at any election.

133. The Election Officers.—In each voting precinct in the State there are four judges and two clerks of elections, appointed annually in each county by the deputy supervisors, except in cities having registration of voters, where they are appointed by the city board of elections. Not more than two of the judges and one clerk may belong to the same political party. It is the duty of these officers to preside at the elections, to receive and count the ballots, to send the results to the deputy supervisors or other officers designated by law, and to perform other clerical duties connected with the election.

134. The Method of Voting.—All regular elections are conducted by a method which is a modification of the so-called Australian ballot system, which was devised in Australia, where it was first tried in 1857. The following is the method of voting in Ohio.

¹ The law makes special and different provision for certain municipal elections and for special elections.

The room where the voting is done is divided into two parts by a guard-rail. In one part are the election officers, the ballot-box, and a number of voting shelves or booths. The guard-rail is so placed that no one on the outside of it can approach within six feet of the ballot-box or the shelves. Any person desiring to vote enters the room on the outside of the guard-rail and gives his name to the election officers. If found legally entitled to vote¹ he is admitted within the guard-rail and is handed an official ballot. This ballot contains the names of all candidates arranged in parallel columns, those of each party or group standing in a separate column. On receipt of his ballot the voter goes alone to one of the voting shelves to mark his ballot in such way as to indicate his choice among the candidates. The shelves are so arranged that no one else can see how he marks his ballot. If he desires to vote for every candidate of one party—that is, a straight ticket—he makes a cross-mark in a circle which is printed at the head of the column containing the names of the candidates of that party. If he wishes to vote a mixed ticket—that is, for candidates of different parties—he makes no cross in the circle but a cross-mark before the name of each person for whom he desires to vote in whichever column the name may be. Desiring to vote for any person not named on the ballot, he may write the name in the proper place and set a cross-mark before it. Before leaving the voting shelf he must fold his ballot so as not to display how he has marked it, and must deliver it to the election officer, who deposits it in the ballot-box.²

¹ In cities every voter is required to be registered in advance of the election. Persons who have not so been registered by the election officers are not permitted to vote except where failure to register was due to certain causes allowed by law.

² The ballot is so made that without unfolding it or being able to see what marks the voter has placed on it the election officer can ascertain

Having deposited his vote the elector must leave the voting-place at once. It is evident that this method of voting secures secrecy for the voter and affords little opportunity for fraud and bribery.

135. Determining the Results.—Votes are received from 5.30 o'clock in the forenoon till 5.30 o'clock in the afternoon. Immediately after the last-named hour the election officers open the ballot-box, which has been locked the entire day, count the vote, and prepare a written statement or return showing the number cast for each candidate. These returns for all except local officers are sent immediately to the deputy supervisors of elections for the county.¹ These officers tabulate or make an abstract of all the returns so as to show the results for the entire county, and forward a copy to the secretary of state. These abstracts from the different counties are there opened, tabulated, and the results declared and published for the State officers and members of Congress, as required by the Constitution and laws.² In judicial, senatorial, and representative districts consisting of two or more counties the abstracts for such district officers are sent to the deputy supervisors of the most populous county in the district, by whom the results are tabulated and certificates of election issued to the successful candidates. For county officers the certificates of election are made out by the deputy supervisors and forwarded to the secretary of state. All State officers, judges, and county officers receive their commissions—that is, their official authority to enter upon their offices—from the governor as soon as their certificates of election are filed with the secretary of state.

The returns of municipal, township, and school elections

whether it is the same ballot given the voter on his entrance. If it is not it is rejected.

¹ In some municipal and local elections they are sent to city boards of elections or township clerks.

² See *Art. III. Sects. 3 and 4.*

are not sent to the deputy supervisors, but to a city, township, or school officer named by law, usually the clerk, by whom the votes are canvassed and the results declared.¹

136. Contested Elections.—Where a candidate for office who has been declared defeated is not satisfied with the result, provision is made by law by which he may contest the election—that is, have the question of the validity of the election or of the count of the votes examined with a view of having the result changed if error or fraud is found to have been committed. This constitutes a valuable safeguard against fraudulent elections.

137. Safeguards against Fraud.—In order to ensure the honest expression of the people's choice for officers, many laws have been adopted for the prevention or punishment of corruption and other evil practices in connection with elections. Severe penalties are prescribed against intimidation of voters, or their attempted bribery by promises of money, employment, or other advantage; betting on election is contrary to law, and the selling or giving away of intoxicating liquors on election day is forbidden. These laws are not as complete as they should be, nor are they always enforced as rigidly as they ought to be. There are so many ways in which corruption in elections is possible, that the greatest care should be taken to frame and enforce strict laws to check it.

138. The Duty of the Voter.—The aim of the laws is to secure to each voter the right of sharing freely and without molestation in the selection of officers. There can be no excuse for failure to take part in the nomination of candidates and the election of officers. If bad men get into office it is the fault of the voters. Upright men

¹ Justices of the peace, though elected by local districts, receive their commissions from the governor after their certificates of election have been filed with the secretary of state.

will be chosen if the electors perform their duty at the primaries and at the polls. If our government is to continue, the laws must be carefully and wisely made, the executive departments must be well managed, our judges must be able and fearless. The voter's share in government and his duty consist in selecting men for office who will rightly and wisely perform the work of government. Upon the voter rests the responsibility for the future of the State.

CONSTITUTION OF THE STATE OF OHIO.

[Ratified in June, 1851.]

PREAMBLE.

WE, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

SEC. 2. All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the general assembly.

SEC. 3. The people have the right to assemble together, in a peaceable manner, to consult for their common good; to instruct their representatives; and to petition the general assembly for the redress of grievances.

SEC. 4. The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate.

SEC. 6. There shall be no slavery in this state; nor involuntary servitude, unless for the punishment of crime.

SEC. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

SEC. 8. The privilege of the writ of habeas corpus shall not be suspended, unless, in cases of rebellion or invasion, the public safety require it.

SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offenses where the proof is evident, or the presumption great. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted.

SEC. 10. Except in cases of impeachment, and cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offences, no person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a grand jury. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed; nor shall any person be compelled, in any criminal case, to be a witness against himself, or be twice put in jeopardy for the same offense.

SEC. 11. Every citizen may freely speak, write, and publish his

sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

SEC. 12. No person shall be transported out of the state for any offense committed within the same; and no conviction shall work corruption of blood, or forfeiture of estate.

SEC. 13. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner prescribed by law.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the person and things to be seized.

SEC. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud.

SEC. 16. All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law; and justice administered without denial or delay.

SEC. 17. No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this state.

SEC. 18. No power of suspending laws shall ever be exercised, except by the general assembly.

SEC. 19. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war or other public exigency, imperatively requiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money, and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

SEC. 20. This enumeration of rights shall not be construed to

impair or deny others retained by the people; and all powers, not herein delegated, remain with the people.

ARTICLE II.

LEGISLATIVE.

SECTION 1. The legislative power of this state shall be vested in a general assembly, which shall consist of a senate and house of representatives.

SEC. 2. Senators and representatives shall be elected biennially by the electors of the respective counties or districts, on the first Tuesday after the first Monday in November; their term of office shall commence on the first day of January next thereafter, and continue two years. [*As amended October 13, 1885.*]

SEC. 3. Senators and representatives shall have resided in their respective counties, or districts, one year next preceding their election, unless they shall have been absent on the public business of the United States, or of this state.

SEC. 4. No person holding office under the authority of the United States, or any lucrative office under the authority of this state, shall be eligible to, or have a seat in, the general assembly; but this provision shall not extend to township officers, justices of the peace, notaries public, or officers of the militia.

SEC. 5. No person hereafter convicted of an embezzlement of the public funds, shall hold any office in this state; nor shall any person, holding public money for disbursement, or otherwise, have a seat in the general assembly, until he shall have accounted for, and paid such money into the treasury.

SEC. 6. Each house shall be judge of the election, returns, and qualifications of its own members; a majority of all the members elected to each house shall be a quorum to do business; but a less number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties, as shall be prescribed by law.

SEC. 7. The mode of organizing the house of representatives, at the commencement of each regular session, shall be prescribed by law.

SEC. 8. Each house, except as otherwise provided in this constitution, shall choose its own officers, may determine its own rules of proceeding, punish its members for disorderly conduct; and,

with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall have all other powers, necessary to provide for its safety, and the undisturbed transaction of its business.

SEC. 9. Each house shall keep a correct journal of its proceedings, which shall be published. At the desire of any two members, the yeas and nays shall be entered upon the journal; and, on the passage of every bill, in either house, the vote shall be taken by yeas and nays, and entered upon the journal; and no law shall be passed in either house without the concurrence of a majority of all the members elected thereto.

SEC. 10. Any member of either house shall have the right to protest against any act, or resolution thereof; and such protest, and the reasons therefor, shall, without alteration, commitment, or delay, be entered upon the journal.

SEC. 11. All vacancies which may happen in either house shall, for the unexpired term, be filled by election, as shall be directed by law.

SEC. 12. Senators and representatives, during the session of the general assembly, and in going to, and returning from the same, shall be privileged from arrest, in all cases, except treason, felony, or breach of the peace; and for any speech, or debate, in either house, they shall not be questioned elsewhere.

SEC. 13. The proceedings of both houses shall be public, except in cases which, in the opinion of two-thirds of those present, require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than two days, Sundays excluded; nor to any other place than that, in which the two houses shall be in session.

SEC. 15. Bills may originate in either house; but may be altered, amended, or rejected in the other.

SEC. 16. Every bill shall be fully and distinctly read, on three different days, unless, in case of urgency, three-fourths of the house, in which it shall be pending, shall dispense with this rule. No bill shall contain more than one subject, which shall be clearly expressed in its title; and no law shall be revived, or amended, unless the new act contain the entire act revived, or the section or sections amended; and the section, or sections, so amended, shall be repealed.

SEC. 17. The presiding officer of each house shall sign, publicly

in the presence of the house over which he presides, while the same is in session, and capable of transacting business, all bills and joint resolutions passed by the general assembly.

SEC. 18. The style of the laws of this state shall be, "*Be it enacted by the General Assembly of the State of Ohio.*"

SEC. 19. No senator or representative shall, during the term for which he shall have been elected, or for one year thereafter, be appointed to any civil office under this state, which shall be created or the emoluments of which shall have been increased, during the term for which he shall have been elected.

SEC. 20. The general assembly, in cases not provided for in this constitution, shall fix the term of office and the compensation of all officers; but no change therein shall affect the salary of any officer during his existing term, unless the office be abolished.

SEC. 21. The general assembly shall determine, by law, before what authority, and in what manner, the trial of contested elections shall be conducted.

SEC. 22. No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years.

SEC. 23. The house of representatives shall have the sole power of impeachment, but a majority of the members elected must concur therein. Impeachments shall be tried by the senate; and the senators, when sitting for that purpose, shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators.

SEC. 24. The governor, judges, and all state officers may be impeached for any misdemeanor in office; but judgment shall not extend further than removal from office, and disqualification to hold any office, under the authority of this state. The party impeached, whether convicted or not, shall be liable to indictment, trial, and judgment, according to law.

SEC. 25. All regular sessions of the general assembly shall commence on the first Monday of January biennially. The first session, under this constitution, shall commence on the first Monday of January, one thousand eight hundred and fifty-two.

SEC. 26. All laws, of a general nature, shall have a uniform operation throughout the state; nor, shall any act, except such as

relates to public schools, be passed, to take effect upon the approval of any other authority than the general assembly, except, as otherwise provided in this constitution.

SEC. 27. The election and appointment of all officers, and the filling of all vacancies, not otherwise provided for by this constitution, or the constitution of the United States, shall be made in such manner as may be directed by law; but no appointing power shall be exercised by the general assembly, except as prescribed in this constitution, and in the election of United States senators; and in these cases the vote shall be taken "*viva voce*."

SEC. 28. The general assembly shall have no power to pass retroactive laws, or laws impairing the obligation of contracts; but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties, and officers, by curing omissions, defects, and errors, in instruments and proceedings, arising out of their want of conformity with the laws of this state.

SEC. 29. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid, on any claim, the subject matter of which shall not have been provided for by pre-existing law, unless such compensation, or claim, be allowed by two-thirds of the members elected to each branch of the general assembly.

SEC. 30. No new county shall contain less than four hundred square miles of territory, nor shall any county be reduced below that amount; and all laws creating new counties, changing county lines, or removing county seats, shall, before taking effect, be submitted to the electors of the several counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of all the electors voting at such election, in each of said counties; but any county now or hereafter containing one hundred thousand inhabitants, may be divided, whenever a majority of the voters residing in each of the proposed divisions shall approve of the law passed for that purpose; but no town or city within the same shall be divided, nor shall either of the divisions contain less than twenty thousand inhabitants.

SEC. 31. The members and officers of the general assembly shall receive a fixed compensation, to be prescribed by law, and no other allowance or perquisites, either in the payment of post-

age or otherwise; and no change in their compensation shall take effect during their term of office.

SEC. 32. The general assembly shall grant no divorce, nor exercise any judicial power not herein expressly conferred.

ARTICLE III.

EXECUTIVE.

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, and an attorney-general, who shall be elected on the first Tuesday after the first Monday in November, by the electors of the state, and at the places of voting for members of the general assembly. [*As amended October 13, 1885.*]

SEC. 2. The governor, lieutenant-governor, secretary of state, treasurer, and attorney-general shall hold their offices for two years; and the auditor for four years. Their terms of office shall commence on the second Monday of January next after their election, and continue until their successors are elected and qualified.

SEC. 3. The returns of every election for the officers named in the foregoing section shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the president of the senate, who, during the first week of the session, shall open and publish them, and declare the result, in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be declared duly elected; but if any two or more shall be highest, and equal in votes, for the same office, one of them shall be chosen by the joint vote of both houses.

SEC. 4. Should there be no session of the general assembly in January next after an election for any of the officers aforesaid, the returns of such election shall be made to the secretary of state, and opened, and the result declared by the governor, in such manner as may be provided by law.

SEC. 5. The supreme executive power of this state shall be vested in the governor.

SEC. 6. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices; and shall see that the laws are faithfully executed.

SEC. 7. He shall communicate at every session, by message, to the general assembly, the condition of the state, and recommend such measures as he shall deem expedient.

SEC. 8. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they have been convened.

SEC. 9. In case of a disagreement between the two houses, in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 10. He shall be commander-in-chief of the military and naval forces of the state, except when they shall be called into the service of the United States.

SEC. 11. He shall have power, after conviction, to grant reprieves, commutations, and pardons, for all crimes and offenses, except treason and cases of impeachment, upon such conditions as he may think proper; subject, however, to such regulations, as to the manner of applying for pardons, as may be prescribed by law. Upon conviction for treason, he may suspend the execution of the sentence, and report the case to the general assembly, at its next meeting, when the general assembly shall either pardon, commute the sentence, direct its execution, or grant a further reprieve. He shall communicate to the general assembly, at every regular session, each case of reprieve, commutation, or pardon granted, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve, with his reasons therefor.

SEC. 12. There shall be a seal of the state, which shall be kept by the governor, and used by him officially; and shall be called "The Great Seal of the State of Ohio."

SEC. 13. All grants and commissions shall be issued in the name and by the authority of the state of Ohio; sealed with the great seal; signed by the governor, and countersigned by the secretary of state.

SEC. 14. No member of congress, or other person holding office under the authority of this state, or of the United States, shall execute the office of governor, except as herein provided.

SEC. 15. In case of the death, impeachment, resignation, removal, or other disability of the governor, the powers and duties of the office, for the residue of the term, or until he shall be

acquitted, or the disability removed, shall devolve upon the lieutenant-governor.

SEC. 16. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided; and in case of his absence, or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 17. If the lieutenant-governor, while executing the office of governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the president of the senate shall act as governor, until the vacancy is filled, or the disability removed; and if the president of the senate, from any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 18. Should the office of auditor, treasurer, secretary, or attorney-general, become vacant, for any of the causes specified in the fifteenth section of this article, the governor shall fill the vacancy until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the full term fixed in the second section of this article.

SEC. 19. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

SEC. 20. The officers of the executive department and of the public state institutions shall, at least five days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such reports, with his message, to the general assembly.

ARTICLE IV.

JUDICIAL.

SECTION 1. The judicial power of the state is vested in a supreme court, circuit courts, courts of common pleas, courts of probate, justices of the peace, and such other courts inferior to

the supreme court, as the general assembly may from time to time establish. [*As amended October 9, 1883.*]

SEC. 2. The supreme court shall, until otherwise provided by law, consist of five judges, a majority of whom competent to sit shall be necessary to form a quorum or to pronounce a decision, except as hereinafter provided. It shall have original jurisdiction in quo warranto, mandamus, habeas corpus and procedendo, and such appellate jurisdiction as may be provided by law. It shall hold at least one term in each year at the seat of government, and such other terms, there or elsewhere, as may be provided by law. The judges of the supreme court shall be elected by the electors of the state at large, for such term, not less than five years, as the general assembly may prescribe, and they shall be elected and their official term shall begin at such time as may be fixed by law. In case the general assembly shall increase the number of such judges, the first term of each of such additional judges shall be such, that in each year after their first election, an equal number of judges of the supreme court shall be elected, except in elections to fill vacancies; and whenever the number of such judges shall be increased, the general assembly may authorize such court to organize divisions thereof, not exceeding three, each division to consist of an equal number of judges; for the adjudication of cases, a majority of each division shall constitute a quorum, and such an assignment of the cases to each division may be made as such court may deem expedient, but whenever all the judges of either division hearing a case shall not concur as to the judgment to be rendered therein, or whenever a case shall involve the constitutionality of an act of the general assembly or of an act of congress, it shall be reserved to the whole court for adjudication. The judges of the supreme court in office when this amendment takes effect, shall continue hold their offices until their successors are elected and qualified. [*As amended October 9, 1883.*]

SEC. 3. The state shall be divided into nine common pleas districts, of which the county of Hamilton shall constitute one, of compact territory, and bounded by county lines; and each of said districts; consisting of three or more counties, shall be subdivided into three parts, of compact territory, bounded by county lines, and as nearly equal in population as practicable; in each of which, one judge of the court of common pleas for said district,

and residing therein, shall be elected by the electors of said subdivision. Courts of common pleas shall be held by one or more of these judges, in every county in the district, as often as may be provided by law; and more than one court, or sitting thereof, may be held at the same time in each district.

SEC. 4. The jurisdiction of the courts of common pleas and of the judges thereof shall be fixed by law.

SEC. 5. [*Repealed October 9, 1883.*]

SEC. 6. The circuit court shall have like original jurisdiction with the supreme court, and such appellate jurisdiction as may be provided by law. Such courts shall be composed of such number of judges as may be provided by law, and shall be held in each county at least once in each year. The number of circuits, and the boundaries thereof, shall be prescribed by law. Such judges shall be elected in each circuit by the electors thereof, and at such time and for such term as may be prescribed by law, and the same number shall be elected in each circuit. Each judge shall be competent to exercise his judicial powers in any circuit. The general assembly may change, from time to time, the number or boundaries of the circuits. The circuit courts shall be the successors of the district courts, and all cases, judgments, records, and proceedings pending in said district courts, in the several counties of any district, shall be transferred to the circuit courts in the several counties, and be proceeded in as though said district courts had not been abolished, and the district courts shall continue in existence until the election and qualification of the judges of the circuit courts. [*As amended October 9, 1883.*]

SEC. 7. There shall be established in each county, a probate court, which shall be a court of record, open at all times, and holden by one judge, elected by the voters of the county, who shall hold his office for the term of three years, and shall receive such compensation, payable out of the county treasury, or by fees, or both, as shall be provided by law.

SEC. 8. The probate court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators, and guardians, and such jurisdiction in habeas corpus, the issuing of marriage licenses, and for the sale of land by executors, administrators, and guardians, and such other jurisdiction, in any county or counties, as may be provided by law.

SEC. 9. A competent number of justices of the peace shall be elected, by the electors, in each township in the several counties. Their term of office shall be three years, and their powers and duties shall be regulated by law.

SEC. 10. All judges, other than those provided for in this Constitution, shall be elected by the electors of the judicial district for which they may be created, but not for a longer term of office than five years.

SEC. 11. [*Repealed October 9, 1883.*]

SEC. 12. The judges of the courts of common pleas shall, while in office, reside in the district for which they are elected; and their term of office shall be for five years.

SEC. 13. In case the office of any judge shall become vacant, before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor is elected and qualified; and such successor shall be elected for the unexpired term, at the first annual election that occurs more than thirty days after the vacancy shall have happened.

SEC. 14. The judges of the supreme court, and of the court of common pleas, shall, at stated times, receive for their services such compensation as may be provided by law, which shall not be diminished, or increased, during their term of office; but they shall receive no fees or perquisites, nor hold any other office of profit or trust, under the authority of this state, or the United States. All votes for either of them, for any elective office, except a judicial office, under the authority of this state, given by the general assembly, or the people, shall be void.

SEC. 15. The general assembly may increase, or diminish, the number of the judges of the supreme court, the number of the districts of the court of common pleas, the number of judges in any district, change the districts, or the subdivisions thereof, or establish other courts, whenever two-thirds of the members elected to each house shall concur therein; but no such change, addition, or diminution, shall vacate the office of any judge.

SEC. 16. There shall be elected in each county, by the electors thereof, one clerk of the court of common pleas, who shall hold his office for the term of three years, and until his successor shall be elected and qualified. He shall, by virtue of his office, be clerk of all other courts of record held therein; but, the general

assembly may provide, by law, for the election of a clerk, with a like term of office, for each or any other of the courts of record, and may authorize the judge of the probate court to perform the duties of clerk for his court, under such regulations as may be directed by law. Clerks of courts shall be removable for such cause and in such manner as shall be prescribed by law.

SEC. 17. Judges may be removed from office, by concurrent resolution of both houses of the general assembly, if two-thirds of the members elected to each house concur therein; but, no such removal shall be made except upon complaint, the substance of which shall be entered on the journal, nor until the party charged shall have had notice thereof, and an opportunity to be heard.

SEC. 18. The several judges of the supreme court, of the common pleas [court], and of such other courts as may be created, shall, respectively, have and exercise such power and jurisdiction, at chambers, or otherwise, as may be directed by law.

SEC. 19. The general assembly may establish courts of conciliation, and prescribe their powers and duties; but such courts shall not render final judgment in any case, except upon submission, by the parties, of the matter in dispute, and their agreement to abide such judgment.

SEC. 20. The style of all process shall be, "The State of Ohio;" all prosecutions shall be carried on in the name, and by the authority, of the State of Ohio; and all indictments shall conclude, "against the peace and dignity of the State of Ohio."

SEC. 21. A commission, which shall consist of five members, shall be appointed by the governor, with the advice and consent of the senate, the members of which shall hold office for the term of three years from and after the first day of February, 1876, to dispose of such part of the business then on the dockets of the supreme court, as shall, by arrangement between said commission and said court, be transferred to such commission; and said commission shall have like jurisdiction and power in respect to such business as are or may be vested in said court; and the members of said commission shall receive a like compensation for the time being with the judges of said court. A majority of the members of said commission shall be necessary to form a quorum or pronounce a decision, and its decision shall be certified, entered, and enforced as the judgments of the supreme court, and at the expiration of the term of said commission, all business undisposed

of, shall by it be certified to the supreme court and disposed of as if said commission had never existed. The clerk and reporter of said court shall be the clerk and reporter of said commission, and the commission shall have such other attendants not exceeding in number those provided by law for said court, which attendants said commission may appoint and remove at its pleasure. Any vacancy occurring in said commission shall be filled by appointment of the governor, with the advice and consent of the senate, if the senate be in session; and if the senate be not in session, by the governor; but in such last case, such appointment shall expire at the end of the next session of the general assembly. The general assembly may, on application of the supreme court duly entered on the journal of the court and certified, provide by law, whenever two-thirds of each house shall concur therein, from time to time, for the appointment, in like manner, of a like commission with like powers, jurisdiction and duties; provided, that the term of any such commission shall not exceed two years, nor shall it be created oftener than once in ten years. [*As adopted October 12, 1875.*]

ARTICLE V.

ELECTIVE FRANCHISE.

SECTION 1. Every white¹ male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the state one year next preceding the election, and of the county, township, or ward, in which he resides, such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections.

SEC. 2. All elections shall be by ballot.

SEC. 3. Electors during their attendance at elections, and in going to, and returning therefrom, shall be privileged from arrest, in all cases, except treason, felony, and breach of the peace.

SEC. 4. The general assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of bribery, perjury, or other infamous crime.

¹ The word "white" in the first section of Article V. has no force since the adoption of the fourteenth and fifteenth amendments to the Constitution of the United States, which forbid any discrimination in the right of voting, on account of color. This prohibition makes void any such discrimination as that indicated by the wording of section one, above.

SEC. 5. No person in the military, naval, or marine service of the United States, shall, by being stationed in any garrison, or military or naval station, within the state, be considered a resident of this state.

SEC. 6. No idiot, or insane person, shall be entitled to the privileges of an elector.

ARTICLE VI.

EDUCATION.

SECTION 1. The principal of all funds, arising from the sale, or other disposition of lands, or other property, granted or entrusted to this state for educational and religious purposes, shall forever be preserved inviolate, and undiminished; and, the income arising therefrom shall be faithfully applied to the specific objects of the original grants, or appropriations.

SEC. 2. The general assembly shall make such provisions, by taxation or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state; but no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state.

ARTICLE VII.

PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind, and deaf and dumb, shall always be fostered and supported by the state; and be subject to such regulations as may be prescribed by the general assembly.

SEC. 2. The directors of the penitentiary shall be appointed or elected in such manner as the general assembly may direct; and the trustees of the benevolent, and other state institutions, now elected by the general assembly, and of such other state institutions, as may be hereafter created, shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor, the question shall be taken by yeas and nays, and entered upon the journals of the senate.

SEC. 3. The governor shall have power to fill all vacancies that

may occur in the offices aforesaid, until the next session of the general assembly, and, until a successor to his appointee shall be confirmed and qualified.

ARTICLE VIII.

PUBLIC DEBT AND PUBLIC WORKS.

SECTION 1. The state may contract debts to supply casual deficits or failure in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed seven hundred and fifty thousand dollars; and the money, arising from the creation of such debts, shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

SEC. 2. In addition to the above limited power, the state may contract debts to repel invasion, suppress insurrection, defend the state in war, or to redeem the present outstanding indebtedness of the state; but the money, arising from the contracting of such debts, shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever; and all debts, incurred to redeem the present outstanding indebtedness of the state, shall be so contracted as to be payable by the sinking fund hereinafter provided for, as the same shall accumulate.

SEC. 3. Except the debts above specified in sections one and two of this article, no debt whatever shall hereafter be created by or on behalf of the state.

SEC. 4. The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual association or corporation whatever; nor shall the state ever hereafter become a joint owner, or stockholder, in any company or association in this state, or elsewhere, formed for any purpose whatever.

SEC. 5. The state shall never assume the debts of any county, city, town, or township, or of any corporation whatever, unless such debt shall have been created to repel invasion, suppress insurrection, or defend the state in war.

SEC. 6. The general assembly shall never authorize any county, city, town, or township, by vote of its citizens, or otherwise, to become a stockholder in any joint stock company, corporation, or

association whatever; or to raise money for, or loan its credit to, or in aid of, any such company, corporation, or association.

SEC. 7. The faith of the state being pledged for the payment of its public debt, in order to provide therefor, there shall be created a sinking fund, which shall be sufficient to pay the accruing interest on such debt, and, annually, to reduce the principal thereof, by a sum not less than one hundred thousand dollars, increased yearly, and each and every year, by compounding, at the rate of six per cent. per annum. The said sinking fund shall consist, of the net annual income of the public works and stocks owned by the state, of any other funds or resources that are, or may be, provided by law, and of such further sum, to be raised by taxation, as may be required for the purposes aforesaid.

SEC. 8. The auditor of state, secretary of state, and attorney-general, are hereby created a board of commissioners, to be styled, "The Commissioners of the Sinking Fund."

SEC. 9. The commissioners of the sinking fund shall, immediately preceding each regular session of the general assembly, make an estimate of the probable amount of the fund, provided for in the seventh section of this article, from all sources except from taxation, and report the same, together with all their proceedings relative to said fund and the public debt, to the governor, who shall transmit the same with his regular message, to the general assembly; and the general assembly shall make all necessary provision for raising and disbursing said sinking fund, in pursuance of the provisions of this article.

SEC. 10. It shall be the duty of the said commissioners faithfully to apply said fund, together with all moneys that may be, by the general assembly, appropriated to that object, to the payment of the interest, as it becomes due, and the redemption of the principal of the public debt of the state, excepting only, the school and trust funds held by the state.

SEC. 11. The said commissioners shall, semi-annually, make a full and detailed report of their proceedings to the governor, who shall, immediately, cause the same to be published, and shall also communicate the same to the general assembly, forthwith, if it be in session, and if not, then at its first session after such report shall be made.

SEC. 12. So long as this state shall have public works which require superintendence, there shall be a board of public works,

to consist of three members, who shall be elected by the people, at the first general election after the adoption of this constitution, one for the term of one year, and one for the term of two years, and one for the term of three years; and one member of said board shall be elected annually thereafter, who shall hold his office for three years.

SEC. 13. The powers and duties of said board of public works, and its several members, and their compensation, shall be such as now are, or may be, prescribed by law.

ARTICLE IX.

MILITIA.

SECTION 1. All white male citizens, residents of this state, being eighteen years of age, and under the age of forty-five years, shall be enrolled in the militia, and perform military duty, in such manner, not incompatible with the constitution and laws of the United States, as may be prescribed by law.

SEC. 2. Majors general, brigadiers general, colonels, lieutenant colonels, majors, captains, and subalterns, shall be elected by the persons subject to military duty, in their respective districts.

SEC. 3. The governor shall appoint the adjutant-general, quartermaster-general, and such other staff officers, as may be provided for by law. Majors general, brigadiers general, colonels, or commandants of regiments, battalions, or squadrons, shall, severally, appoint their staff, and captains shall appoint their non-commissioned officers and musicians.

SEC. 4. The governor shall commission all officers of the line and staff, ranking as such; and shall have power to call forth the militia, to execute the laws of the state, to suppress insurrection, and repel invasion.

SEC. 5. The general assembly shall provide, by law, for the protection and safe keeping of the public arms.

ARTICLE X.

COUNTY AND TOWNSHIP ORGANIZATIONS.

SECTION 1. The general assembly shall provide, by law, for the election of such county and township officers as may be necessary.

SEC. 2. County officers shall be elected on the first Tuesday

after the first Monday in November, by the electors of each county in such manner, and for such term, not exceeding three years, as may be provided by law. [*As amended October 13, 1885.*]

SEC. 3. No person shall be eligible to the office of sheriff, or county treasurer, for more than four years, in any period of six years.

SEC. 4. Township officers shall be elected by the electors of each township at such time, in such manner, and for such term, not exceeding three years, as may be provided by law; but shall hold their offices until their successors are elected and qualified. [*As amended October 13, 1885.*]

SEC. 5. No money shall be drawn from any county or township treasury, except by authority of law.

SEC. 6. Justices of the peace, and county and township officers, may be removed, in such manner and for such cause, as shall be prescribed by law.

SEC. 7. The commissioners of counties, the trustees of townships, and similar boards, shall have such power of local taxation, for police purposes, as may be prescribed by law.

ARTICLE XI.

APPORTIONMENT.

SECTION 1. The apportionment of this state for members of the general assembly shall be made every ten years, after the year one thousand eight hundred and fifty-one, in the following manner: The whole population of the state, as ascertained by the federal census, or in such other mode as the general assembly may direct, shall be divided by the number "one hundred," and the quotient shall be the ratio of representation in the house of representatives, for ten years next succeeding such apportionment.

SEC. 2. Every county having a population equal to one-half of said ratio, shall be entitled to one representative; every county, containing said ratio, and three-fourths over, shall be entitled to two representatives; every county, containing three times said ratio, shall be entitled to three representatives; and so on, requiring after the first two, an entire ratio for each additional representative.

SEC. 3. When any county shall have a fraction above the ratio, so large, that being multiplied by five, the result will be

equal to one or more ratios, additional representatives shall be apportioned for such ratios, among the several sessions of the decennial period, in the following manner: If there be only one ratio, a representative shall be allotted to the fifth session of the decennial period; if there are two ratios, a representative shall be allotted to the fourth and third sessions, respectively; if three, to the third, second, and first sessions, respectively; if four, to the fourth, third, second, and first sessions, respectively.

SEC. 4. Any county, forming with another county or counties, a representative district, during one decennial period, if it have acquired sufficient population at the next decennial period, shall be entitled to a separate representation, if there shall be left, in the district from which it shall have been separated, a population sufficient for a representative; but no such change shall be made, except at the regular decennial period for the apportionment of representatives.

SEC. 5. If, in fixing any subsequent ratio, a county, previously entitled to a separate representation, shall have less than the number required by the new ratio for a representative, such county shall be attached to the county adjoining it, having the least number of inhabitants; and the representation of the district, so formed, shall be determined as herein provided.

SEC. 6. The ratio for a senator shall forever, hereafter, be ascertained by dividing the whole population of the state by the number thirty-five.

SEC. 7. The state is hereby divided into thirty-three senatorial districts, as follows: The county of Hamilton shall constitute the first senatorial district; the counties of Butler and Warren, the second; Montgomery and Preble, the third; Clermont and Brown, the fourth; Greene, Clinton, and Fayette, the fifth; Ross and Highland, the sixth; Adam, Pike, Scioto, and Jackson, the seventh; Lawrence, Gallia, Meigs, and Vinton, the eighth; Athens, Hocking, and Fairfield, the ninth; Franklin and Pickaway, the tenth; Clark, Champaign, and Madison, the eleventh; Miami, Darke, and Shelby, the twelfth; Logan, Union, Marion, and Hardin, the thirteenth; Washington and Morgan, the fourteenth; Muskingum and Perry, the fifteenth; Delaware and Licking, the sixteenth; Knox and Morrow, the seventeenth; Coshocton and Tuscarawas, the eighteenth; Guernsey and Monroe, the nineteenth; Belmont and Harrison, the twentieth; Carroll and Stark, the twenty-first;

Jefferson and Columbiana, the twenty-second; Trumbull and Mahoning, the twenty-third; Ashtabula, Lake, and Geauga, the twenty-fourth; Cuyahoga, the twenty-fifth; Portage and Summit, the twenty-sixth; Medina and Lorain, the twenty-seventh; Wayne and Holmes, the twenty-eighth; Ashland and Richland, the twenty-ninth; Huron, Erie, Sandusky, and Ottawa, the thirtieth; Seneca, Crawford, and Wyandot, the thirty-first; Mercer, Auglaize, Allen, Van Wert, Paulding, Defiance, and Williams, the thirty-second; and Hancock, Wood, Lucas, Fulton, Henry, and Putnam, the thirty-third. For the first decennial period, after the adoption of this constitution, each of said districts shall be entitled to one senator, except the first district, which shall be entitled to three senators.

SEC. 8. The same rules shall be applied, in apportioning the fractions of senatorial districts, and in annexing districts, which may hereafter have less than three-fourths of a senatorial ratio, as are applied to representative districts.

SEC. 9. Any county forming part of a senatorial district, having acquired a population equal to a full senatorial ratio, shall be made a separate senatorial district, at any regular decennial apportionment, if a full senatorial ratio shall be left in the district from which it shall be taken.

SEC. 10. For the first ten years after the year one thousand eight hundred and fifty-one, the apportionment of representatives shall be as provided in the schedule, and no change shall ever be made in the principles of representation, as herein established, or, in the senatorial districts, except as above provided. All territory belonging to a county at the time of any apportionment, shall, as to the right of representation and suffrage, remain an integral part thereof, during the decennial period.

SEC. 11. The governor, auditor, and secretary of state, or any two of them, shall, at least six months prior to the October election, in the year one thousand eight hundred and sixty-one, and at each decennial period thereafter, ascertain and determine the ratio of representation, according to the decennial census, the number of representatives and senators each county or district shall be entitled to elect, and for what years, within the next ensuing ten years, and the governor shall cause the same to be published, in such manner as shall be directed by law.

JUDICIAL APPORTIONMENT.

SEC. 12. For judicial purposes, the state shall be apportioned as follows :

The county of Hamilton, shall constitute the first district, which shall not be subdivided ; and the judges therein, may hold separate courts or separate sittings of the same court, at the same time.

The counties of Butler, Preble, and Darke, shall constitute the first subdivision ; Montgomery, Miami, and Champaign, the second ; and Warren, Clinton, Greene, and Clark, the third subdivision, of the second district ; and, together, shall form such district.

The counties of Shelby, Auglaize, Allen, Hardin, Logan, Union, and Marion, shall constitute the first subdivision ; Mercer, Van Wert, Putnam, Paulding, Defiance, Williams, Henry, and Fulton, the second ; and Wood, Seneca, Hancock, Wyandot, and Crawford, the third subdivision, of the third district ; and, together, shall form such district.

The counties of Lucas, Ottawa, Sandusky, Erie, and Huron, shall constitute the first subdivision ; Lorain, Medina, and Summit, the second ; and the county of Cuyahoga, the third subdivision, of the fourth district ; and, together, shall form such district.

The counties of Clermont, Brown, and Adams, shall constitute the first subdivision ; Highland, Ross, and Fayette, the second ; and Pickaway, Franklin, and Madison, the third subdivision, of the fifth district ; and, together, shall form such district.

The counties of Licking, Knox, and Delaware, shall constitute the first subdivision ; Morrow, Richland, and Ashland, the second ; and Wayne, Holmes, and Coshocton, the third subdivision, of the sixth district ; and, together, shall form such district.

The counties of Fairfield, Perry, and Hocking, shall constitute the first subdivision ; Jackson, Vinton, Pike, Scioto, and Lawrence, the second ; and Gallia, Meigs, Athens, and Washington, the third subdivision, of the seventh district ; and, together, shall form such district.

The counties of Muskingum and Morgan, shall constitute the first subdivision ; Guernsey, Belmont, and Monroe, the second ; and Jefferson, Harrison, and Tuscarawas, the third subdivision, of the eighth district ; and, together, shall form such district.

The counties of Stark, Carroll, and Columbiana, shall constitute the first subdivision ; Trumbull, Portage, and Mahoning, the sec-

ond; and Geauga, Lake, and Ashtabula, the third subdivision, of the ninth district; and, together, shall form such district.

SEC. 13. The general assembly shall attach any new counties that may hereafter be erected to such districts or subdivisions thereof as shall be the most convenient.

ARTICLE XII.

FINANCE AND TAXATION.

SECTION 1. The levying of taxes by the poll is grievous and oppressive; therefore, the general assembly shall never levy a poll tax, for county or state purposes.

SEC. 2. Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also all real and personal property, according to its true value in money; but burying grounds, public school houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property, to an amount not exceeding in value two hundred dollars, for each individual, may, by general laws, be exempted from taxation; but, all such laws shall be subject to alteration or repeal; and the value of all property, so exempted, shall, from time to time, be ascertained and published, as may be directed by law.

SEC. 3. The general assembly shall provide, by law, for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects, or dues, of every description, (without deduction,) of all banks, now existing, or hereafter created, and of all bankers, so that all property employed in banking, shall always bear a burden of taxation equal to that imposed on the property of individuals.

SEC. 4. The general assembly shall provide for raising revenue, sufficient to defray the expenses of the state, for each year, and also a sufficient sum to pay the interest on the state debt.

SEC. 5. No tax shall be levied except in pursuance of law; and every law imposing a tax, shall state, distinctly, the object of the same, to which only, it shall be applied.

SEC. 6. The state shall never contract any debt for purposes of internal improvement.

ARTICLE XIII.

CORPORATIONS.

SECTION 1. The general assembly shall pass no special act conferring corporate powers.

SEC. 2. Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed.

SEC. 3. Dues from corporations shall be secured, by such individual liability of the stockholders, and other means, as may be prescribed by law; but, in all cases, each stockholder shall be liable, over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum, at least equal in amount to such stock.

SEC. 4. The property of corporations, now existing or hereafter created, shall for ever be subject to taxation, the same as the property of individuals.

SEC. 5. No right of way shall be appropriated to the use of any corporation until full compensation therefor be first made in money, or first secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury of twelve men, in a court of record, as shall be prescribed by law.

SEC. 6. The general assembly shall provide for the organization of cities, and incorporated villages, by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such power.

SEC. 7. No act of the general assembly, authorizing associations with banking powers, shall take effect until it shall be submitted to the people, at the general election next succeeding the passage thereof, and be approved by a majority of all the electors voting at such election.

ARTICLE XIV.

JURISPRUDENCE.

SECTION 1. The general assembly, at its first session after the adoption of this constitution, shall provide for the appointment of three commissioners, and prescribe their tenure of office, compensation, and the mode of filling vacancies in said commission.

SEC. 2. The said commissioners shall revise, reform, simplify, and abridge the practice, pleadings, forms, and proceedings of the courts of record of this state; and, as far as practicable and expedient, shall provide for the abolition of the distinct forms of action at law, now in use, and for the administration of justice by a uniform mode of proceeding, without reference to any distinction between law and equity.

SEC. 3. The proceedings of the commissioners shall, from time to time, be reported to the general assembly, and be subject to the action of that body.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. Columbus shall be the seat of government, until otherwise directed by law.

SEC. 2. The printing of the laws, journals, bills, legislative documents and papers for each branch of the general assembly, with the printing required for the executive and other departments of state, shall be let, on contract, to the lowest responsible bidder, by such executive officers, and in such manner, as shall be prescribed by law.

SEC. 3. An accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom, and on what account, shall, from time to time, be published, as shall be prescribed by law.

SEC. 4. No person shall be elected or appointed to any office in this state, unless he possess the qualification of an elector.

SEC. 5. No person who shall hereafter fight a duel, assist in the same as second, or send, accept, or knowingly carry, a challenge therefor, shall hold any office in this state.

SEC. 6. Lotteries, and the sale of lottery tickets, for any purpose whatever, shall forever be prohibited in this state.

SEC. 7. Every person chosen or appointed to any office under this state, before entering upon the discharge of its duties, shall take an oath or affirmation to support the Constitution of the United States, and of this state, and also an oath of office.

SEC. 8. There may be established, in the secretary of state's office, a bureau of statistics, under such regulations as may be prescribed by law.

SEC. 9. No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may, by law, provide against evils resulting therefrom.

ARTICLE XVI.

AMENDMENTS.

SECTION 1. Either branch of the general assembly may propose amendments to this constitution; and, if the same shall be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and shall be published in at least one newspaper in each county of the state, where a newspaper is published, for six months preceding the next election for senators and representatives, at which time the same shall be submitted to the electors, for their approval or rejection; and if a majority of the electors, voting at such election, shall adopt such amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment, separately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the general assembly, shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote, at the next election for members to the general assembly, for or against a convention; and if a majority of all the electors, voting at said election, shall have voted for a convention, the general assembly shall, at their next session, provide, by law, for calling the same. The convention shall consist of as many members as the house of representatives, who shall be chosen in the same manner, and shall meet within three months after their election, for the purpose, aforesaid.

SEC. 3. At the general election to be held in the year one thousand eight hundred and seventy-one, and in each twentieth year thereafter, the question: "Shall there be a convention to revise, alter, or amend the Constitution?" shall be submitted to the electors of the state; and, in case a majority of all the electors, voting at such election, shall decide in favor of a convention, the general assembly, at its next session, shall provide, by law, for the election of delegates, and the assembling of such convention, as

is provided in the preceding section; but no amendment of this constitution, agreed upon by any convention assembled in pursuance of this article, shall take effect, until the same shall have been submitted to the electors of the state, and adopted by a majority of those voting thereon.

SCHEDULE.

SECTION 1. All laws of this state, in force on the first day of September, one thousand eight hundred and fifty-one, not inconsistent with this constitution, shall continue in force until amended, or repealed.

SEC. 2. The first election for members of the general assembly, under this constitution, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one.

SEC. 3. The first election for governor, lieutenant-governor, auditor, treasurer, and secretary of state, and attorney general, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one. The persons, holding said offices on the first day of September, one thousand eight hundred and fifty-one, shall continue therein, until the second Monday of January, one thousand eight hundred and fifty-two.

SEC. 4. The first election for judges of the supreme court, courts of common pleas, and probate courts, and clerks of the courts of common pleas, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one, and the official term of said judges and clerks, so elected, shall commence on the second Monday of February, one thousand eight hundred and fifty-two. Judges and clerks of the courts of common pleas and supreme court, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office with their present powers and duties, until the second Monday of February, one thousand eight hundred and fifty-two. No suit or proceeding, pending in any of the courts of this state, shall be affected by the adoption of this constitution.

SEC. 5. The register and receiver of the land office, directors of the penitentiary, directors of the benevolent institutions of the state, the state librarian, and all other officers, not otherwise provided for in this constitution, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in

office, until their terms expire, respectively, unless the general assembly shall otherwise provide.

SEC. 6. The superior and commercial courts of Cincinnati, and the superior court of Cleveland, shall remain until otherwise provided by law, with their present powers and jurisdiction; and the judges and clerks of said courts, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office, until the expiration of their terms of office, respectively, or, until otherwise provided by law; but neither of said courts shall continue after the second Monday of February, one thousand eight hundred and fifty-three; and no suit shall be commenced in said two first mentioned courts, after the second Monday of February, one thousand eight hundred and fifty-two, nor in said last mentioned court, after the second Monday in August, one thousand eight hundred and fifty-two; and all business in either of said courts, not disposed of within the time limited for their continuance as aforesaid, shall be transferred to the court of common pleas.

SEC. 7. All county and township officers and justices of the peace, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office until their terms expire, respectively.

SEC. 8. Vacancies in office, occurring after the first day of September, one thousand eight hundred and fifty-one, shall be filled, as is now prescribed by law, and until officers are elected or appointed, and qualified, under this constitution.

SEC. 9. This constitution shall take effect, on the first day of September, one thousand eight hundred and fifty-one.

SEC. 10. All officers shall continue in office, until their successors shall be chosen and qualified.

SEC. 11. Suits pending in the supreme court in bank, shall be transferred to the supreme court provided for in this constitution, and be proceeded in according to law.

SEC. 12. The district courts shall, in their respective counties, be the successors of the present supreme court; and all suits, prosecutions, judgments, records, and proceedings, pending and remaining in said supreme court, in the several counties of any district shall be transferred to the respective district courts of such counties, and be proceeded in, as though no change had been made in said supreme court.

SEC. 13. The said courts of common pleas shall be the successors of the present courts of common pleas in the several counties, except as to probate jurisdiction; and all suits, prosecutions, proceedings, records and judgments, pending or being in said last mentioned courts, except as aforesaid, shall be transferred to the courts of common pleas created by this constitution, and proceeded in, as though the same had been therein instituted.

SEC. 14. The probate courts provided for in this constitution, as to all matters within the jurisdiction conferred upon said courts, shall be the successors, in the several counties, of the present courts of common pleas; and the records, files and papers, business and proceedings, appertaining to said jurisdiction, shall be transferred to said courts of probate, and be there proceeded in according to law.

SEC. 15. Until otherwise provided by law, elections for judges and clerks shall be held, and the poll-books returned, as is provided for governor, and the abstract therefrom, certified to the secretary of state, shall be by him opened, in the presence of the governor, who shall declare the result, and issue commissions to the persons elected.

SEC. 16. Where two or more counties are joined in a senatorial, representative, or judicial district, the returns of election shall be sent to the county having the largest population.

SEC. 17. The foregoing constitution shall be submitted to the electors of the state, at an election to be held on the third Tuesday of June, one thousand eight hundred and fifty-one, in the several election districts of this state. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, "New Constitution, Yes;" those against the constitution, "New Constitution, No." The polls at said election shall be opened between the hours of eight and ten o'clock A. M., and closed at six o'clock P. M., and the said election shall be conducted, and the returns thereof made and certified to the secretary of state, as provided by law for annual elections of state and county officers. Within twenty days after such election the secretary of state shall open the returns thereof, in the presence of the governor; and, if it shall appear that a majority of all the votes, cast at such election, are in favor of the constitution, the governor shall issue his proclamation stating that fact, and said constitution shall be the Constitution of the State of Ohio, and not otherwise.

SEC. 18. At the time when the votes of the electors shall be taken for the adoption or rejection of this constitution, the additional section, in the words following, to-wit: "No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may, by law, provide against evils resulting therefrom," shall be separately submitted to the electors for adoption or rejection, in form following, to-wit: A separate ballot may be given by every elector and deposited in a separate box. Upon the ballots given for said separate amendment shall be written or printed, or partly written and partly printed, the words; "License to sell intoxicating liquors, Yes;" and upon the ballots given against said amendment, in like manner, the words: "License to sell intoxicating liquors, No." If, at the said election, a majority of all the votes given for and against said amendment, shall contain the words: "License to sell intoxicating liquors, No," then the said amendment shall be a separate section of article fifteen of the constitution.

This election resulted:

"License to sell intoxicating liquors, No"	113,237
"License to sell intoxicating liquors, Yes"	104,255
Majority against license	8,982

SEC. 19. The apportionment for the house of representatives during the first decennial period under this constitution, shall be as follows:

The counties of Adams, Allen, Athens, Auglaize, Carroll, Champaign, Clark, Clinton, Crawford, Darke, Delaware, Erie, Fayette, Gallia, Geauga, Greene, Hancock, Harrison, Hocking, Holmes, Lake, Lawrence, Logan, Madison, Marion, Meigs, Morrow, Perry, Pickaway, Pike, Preble, Sandusky, Scioto, Shelby and Union, shall, severally, be entitled to one representative in each session of the decennial period.

The counties of Franklin, Licking, Montgomery, and Stark shall each be entitled to two representatives in each session of the decennial period.

The counties of Ashland, Coshocton, Highland, Huron, Lorain, Mahoning, Medina, Miami, Portage, Seneca, Summit, and Warren, shall, severally, be entitled to one representative, in each session; and one additional representative in the fifth session of the decennial period.

The counties of Ashtabula, Brown, Butler, Clermont, Fairfield,

Guernsey, Jefferson, Knox, Monroe, Morgan, Richland, Trumbull, Tuscarawas, and Washington, shall, severally, be entitled to one representative, in each session; and two additional representatives, one in the third, and one in the fourth session of the decennial period.

The counties of Belmont, Columbiana, Ross, and Wayne, shall, severally, be entitled to one representative in each session, and three additional representatives, one in the first, one in the second, and one in the third session of the decennial period.

The county of Muskingum shall be entitled to two representatives, in each session; and one additional representative in the fifth session of the decennial period.

The county of Cuyahoga shall be entitled to two representatives in each session, and two additional representatives, one in the third and one in the fourth session of the decennial period.

The county of Hamilton shall be entitled to seven representatives in each session, and four additional representatives, one in the first, one in the second, one in the third, and one in the fourth session of the decennial period.

The following counties, until they shall have acquired a sufficient population to entitle them to elect, separately, under the fourth section of the eleventh article, shall form districts in manner following, to-wit: The counties of Jackson and Vinton, one district; the counties of Lucas and Fulton, one district; the counties of Wyandot and Hardin, one district; the counties of Mercer and Van Wert, one district; the counties of Paulding, Defiance, and Williams, one district; the counties of Putnam and Henry, one district; and the counties of Wood and Ottawa, one district; each of which districts shall be entitled to one representative in every session of the decennial period.

Done in convention, at Cincinnati, the tenth day of March, in the year of our Lord, one thousand eight hundred and fifty-one, and of the independence of the United States, the seventy-fifth.

WILLIAM MEDILL,

Attest:

President.

WM. H. GILL, *Secretary.*



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